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ABSTRACT

This document provides technical assistance in addressing major areas of the child care facility construction and renovation process, including conducting a child care community needs assessment, identifying a site, financing costs, developing a business plan, conducting an environmental assessment, building and designing a facility, and hiring contractors. A glossary of terms and resources are provided. Appendices contain a sample notice of federal interest, a list of construction and renovation documents and deadlines, and an application of Title III (Public Accommodations) of the Americans with Disabilities Act to the Tribes. (GR)

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Tribal Child Care Facilities: A Guide to Construction and Renovation

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Introduction

The Personal Responsibility and Work Opportunity Reconcilation Act of 1996 allowed Tribes to use Child Care and Development Fund (CCDF) monies for the construction or renovation of child care facilities. A Tribe must first request and receive approval from the Administration for Children and Families (ACF) before using CCDF funds for construction or major renovation. Requests must follow uniform procedures (45 CFR 98.84; ACYF-CC-PI-05, dated August 18, 1997; and AACYF-PI-97-06, dated November 4, 1997).

As these procedures have been implemented over the past two years, Tribes and ACF Regional Offices have identified a number of issues and needs. Construction and renovation is a new area for many tribal child care programs. This *Guide to Construction and Renovation* is designed to provide technical assistance to address major areas of the process, including:

- Conducting a child care community needs assessment;
- Identifying a site for the facility;
- Financing the construction and renovation costs;
- Developing a business plan for the facility;
- Conducting an environmental assessment;
- Building a facility;
- Designing and planning for the facility;
- Hiring a contractor; and

- Overseeing the project.

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Chapter 1: Conducting a Child Care Community Needs Assessment

I. **What is a Community Assessment?**
II. **Why Do a Community Assessment?**
III. **Program Planning and Decision-Making**

A Tribal Lead Agency should conduct a community needs assessment to determine the need for construction or renovation of a child care facility. A community assessment usually examines the entire child care service environment, including facility needs.

I. What is a Community Assessment?

A child care community assessment is the collection and analysis of information on the characteristics of the eligible children and families in the service area and the resources available to assist families in child care services.

The emphasis of the community assessment should be on issues having the greatest impact on the eligible child care population. It covers the entire service area that a tribal child care lead agency is funded to serve. It should not be limited to the areas where the lead agency is drawing children and families they are serving.

A completed child care community assessment is a tool that will assist a Tribe in making decisions about the types of child care services to be provided in a tribal community.

II. Why Do a Community Assessment?

There are several important reasons for conducting a community assessment. They are:

- Program planning and decision-making;
- Documenting the eligible population;
- Applying for funds to support Child Care and Development Fund (CCDF) services;
- Responding to changing programs and policies;
- Collaboration and community partnerships;
- Providing child and family advocacy; and
- Internal education for tribal officials and program staff.

III. Program Planning and Decision-Making

The community assessment is an integral part of the CCDF planning process for a tribal lead agency. The community assessment is an important tool for making decisions in a number of areas. For example:

- Establishing a tribal lead agency's mission and service goals and objectives;
- Establishing plans to attain the desired goals and objectives;
- Determining the accessibility and gaps in child care services;
- Projecting the eligible population within the service area;
- Determining the types of program services to be offered;
- Determining the locations of child care services within the service area;
- Determining the marketing and recruitment priorities; and
- Establishing need for construction and renovation of facilities.

Decisions will cover different time spans. The tribal lead agency's two-year plan requires that decisions are made for a two-year period. Lead agencies should be engaging in long-term strategic planning for management tasks requiring extended lead times, for example, planning for and developing new facilities, expanding services, increasing and changing the types of services provided, and revising the method and criteria for determining eligibility.

Documenting the Eligible Population

Documenting the number of eligible children within a tribal community is an annual CCDF funding requirement. Collecting this data will assist Tribal lead agencies in projecting future trends of the child care population. Understanding trends in the target population provides lead agencies with information to design their program services which adequately meet their community needs. For example, projections for a significant increase in infant/toddler or school-age children would affect the types of services – or locations of services (school-age) – offered.

Leveraging Funds to Support CCDF Services

Supplemental awards can support innovative methods for consumer education, extending child care services, meeting specialized service needs of participating children and their families and/or implementing collaborative working relationships. Most decisions about child care services will be made by tribal lead agencies relative to their existing resources. Nevertheless, information gleaned from a community assessment can be used to plan new programs and support other applications for public and private funding.

Responding to Changing Programs and Policies

Understanding the environment in which child care services are provided allows for greater flexibility of lead agencies in meeting the demands of funding agencies and the needs of the eligible population. For example, having conducted a community assessment, a tribal lead agency will be more equipped to respond to new program regulations, or develop funding proposals based on the needs of their community.

Collaboration and Community Partnerships

The community assessment can assist tribal lead agencies in collaborative efforts with the various community agencies. The process of collecting information and opinions from these agency resources can help to develop and enhance personal ties with other staff in these agencies. This type of information can be used to establish information and referral services and to establish working relationships with community

partners toward providing a seamless array of child care services within the service area.

Providing Child and Family Advocacy

The community assessment data can provide information to help set priorities for services and identify where community advocacy is needed. For example, this information can be used to demonstrate unmet needs (as required by the CCDF ACF-700 Supplemental Narrative Report).

Conducting Internal Education

The community assessment information can be used to educate staff, parents, tribal councils, consortium boards and early childhood service providers about the needs of CCDF-eligible families. The assessment highlights the strength of a community and indicates where there are gaps in services. The information can be used to support the efforts undertaken by the tribal lead agency during the public hearing process for the CCDF two-year plan.

Who Should Participate in the Community Assessment Process?

Tribal lead agencies have great flexibility in designing their community assessment process, which includes determining who should be involved in the process. The community assessment process should involve different types of people. They may include but are not limited to:

- **CCDF staff**: This planning function is an administrative activity for which the director has the operating responsibility. Other management staff, where they exist, should participate actively in collecting and analyzing information.

- **Tribal Staff (Non-CCDF):** Depending on the structure and organization of the tribal lead agencies, planning or other technical staff may be called upon to participate in the process. Other tribal program directors may be kept informed or asked to participate in appropriate ways.

- **Decision-Making Bodies**: Tribal councils and special committees of the councils should be consulted with on the plan for conducting a community assessment. Members of these bodies may be asked to participate directly in collecting, analyzing or interpreting information as individuals or as part of an existing advisory committee.

- **Consultants, Volunteers or Students**: Most tribal lead agencies are capable of planning, conducting and preparing a community assessment without outside assistance. Nevertheless, the management staff of the CCDF may seek assistance to accomplish this activity. If outside help is used, care must be given to coordinating and supervising the work to be accomplished. Outside assistance should not substitute for the CCDF director or other management staff.

- **Other Early Childhood and Support Agencies:** Joint efforts can be undertaken through collaborative efforts of the various providers of early childhood programs within tribal communities. Private and public agencies can share considerable information on the needs of the CCDF service populations. The CCDF agencies can provide similar information to other service programs within tribal communities.

What Method To Use?

Determining how to plan for a community assessment will depend on the size and characteristics of the tribal lead agency. Choices may include a number of existing structures such as existing advisory

committees, an existing group within a tribe's planning departments or the establishment of a community assessment committee or design team. In determining the design for the community assessment, it is important to:

1. Determine the desired results and outcomes of the assessment;
2. Determine the best use of time and resources;
3. Outline tasks, assign responsibilities and establish timelines;
4. The correct mix of community agencies should be included in this planning process. Community assessment preparations should also take into account the number of staff, volunteers and students that will be used to implement the assessment, analyze the information and prepare a community assessment document.

What Information To Be Gathered?

The basic question is: what information needs to be gathered, analyzed and included in the community assessment report? There is no required process to be used in conducting an assessment of child care services by a tribal lead agency, nor is there a required format for reporting the community assessment findings.

The CCDF regulations, program instructions, information memorandums and CCDF Plan requirements should be reviewed to determine what information to include in the community assessment. The tribal lead agency may determine to include other information, as well.

Tribal Plan Information

The tribal plan preprint and instructions provide guidance on information that must be gathered by tribal lead agencies in planning for the provision of early childhood and child care services. For example, data to be gathered to support the services outlined in the Tribal Plan include:

- Number of eligible children under age 13 residing within the defined service area;
- Information that supports the children with special needs to be served;
- Demographic information on the eligible population to include health, education, economic status, employment, workforce development and Temporary Assistance for Needy Families (TANF);
- The types of early childhood and child care services provided within the service area;
- Payment rates (based on market rate survey);
- Documentation of the poverty level used by the lead agency for determining eligibility;
- Health and safety standards; and
- Number and types of community resource agencies for service support and collaborative activities.

Information Sources for Community Assessment

Data to be used in a child care community needs assessment may be obtained from: customers; competitors (if applicable); and by researching local demographic information. Within each of these areas, information can be gathered to support a lead agency's decision-making process.

Demographic Information

1. Demographic data on the service area population, basic economic activities, location, poverty levels, and future trends of the tribal service area can be located in a tribe's overall economic development plan or tribal action plan, tribal planning departments, tribal census offices and the U.S. Census Bureau updates. Information gathered from these sources could provide a general background for

decisions regarding population growths or decline and economic circumstances.

2. Data related to unemployment rates, number of public assistance recipients, protective service data, infant mortality rates, condition of housing and public facilities, and environmental assessments may be obtained from tribal agencies and programs, Indian Health Service, Bureau of Indian Affairs, and county or state welfare agencies, and vocational rehabilitation services. This type of information may assist a lead agency in identifying and prioritizing issues that need to be addressed within a community and assist in developing the lead agency's goals and objectives.
3. Information on tribal, racial or ethnic composition can be obtained through the U.S. Census Bureau and its updates, tribal census offices, and tribal, BIA, public and private school systems. This could provide information that a lead agency could use to make decisions on the types of child care services to provide, marketing strategies and location of the various types of services.
4. Information on the number of children served by other early childhood programs and the characteristics of these programs can be obtained from tribal licensing agencies, Head Start, Early Head Start, tribal child care contracts and local school districts. This information may be used to calculate the unmet need or to determine the level of child care saturation. This type of information could be used to make decisions about the types of services to be provided, where to provide additional services, where to decrease services and for other service priorities.
5. Other data may be gleaned from the form ACF-700 Child Care and Development Fund Report. The annual report provides aggregate information on CCDF program services.

Customer Information

Information gathered from current and potential customers can provide valuable information about child care services.

- Customers of child care services have opinions regarding the service they receive and can provide a wealth of information that can assist a tribal lead agency and child care providers. Customer information can be gathered through customer satisfaction surveys, meetings or interviews or a mix of these methods. Information gathered from customers can be used to identify and prioritize issues that need to be addressed by the lead agency or provider, determine lead agency goals, objectives and activities, and identify areas for quality improvement efforts.
- Opinions of other families not using child care services can provide information for determining service options, potential for service expansion and additional support for service trends.

Community Agencies

Information can be obtained from various community agencies. Examples of community agencies include, but are not limited to: Head Start programs; child welfare agencies; social service agencies; education and workforce development or TANF agencies and the healthy agency or Indian Health Service. The following information can be gathered by using methods such as interviews, written questionnaires or meetings with agency representatives:

- Information on the availability and accessibility of community resources for child care families can be attained from these other community agencies. This information can be used to determine the information and referral services needed within a community, assist in developing more useful collaborative working relationships and sharing and blending of resources for a continuum of child care services.

- Community agencies can provide valuable information on resources which may be used by the child care population and child care providers for service improvements, family advocacy efforts and strategies for service delivery.

What Should a Community Assessment Look Like?

There is no required format or instructions for preparing a written community assessment document. There is no required length for the assessment document. The assessment should only address the issues and concerns of the child care population. It should be long enough to be comprehensive, yet short enough so that the report will be used by decision-makers. As a general guide, reports from small to medium size tribal lead agencies may be 10–30 pages. Reports from larger tribal agencies may be between 20 to 50 pages and would include an executive summary. The suggested page limitation does not include graphics, charts or exhibits.

When Should the Community Assessment Process Begin?

Tribal lead child care agencies must take into consideration a variety of management and program activities and requirements when scheduling the community assessment process. Typically, the planning of the community assessment process must consider when the tribal plan preprint and the annual funding application are due (July 1 of each two-year plan cycle), the scheduling of public hearings and seeking tribal approval for submission of the tribal plan preprints. Depending on the size of the tribal lead agency, the beginning of the community assessment process, as a rule, should begin no later that 10 months from the date of submission of the tribal plan preprint for a two-year period. A longer time frame for completing each section of the community assessment process will permit more accurate analyzing of information.

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Chapter 2: Identifying a Site for the Facility

I. Determining a Location
II. Land Ownership

I. Determining a Location

Selecting the location for a child care facility is crucial to the success of the program. The site should be convenient for parents, safe for children and close to other community programs and services. The first step in identifying a child care site should be to carefully review the information gathered through the community assessment to determine:

- How many children potentially need child care? (Identify by age)
- Where do the families live?
- Where do the parents work or attend school?
- Where do 6 to 12 year olds attend school?

When determining the convenience of a location, grantees should consider:

- Transportation routes for public and/or tribal transit systems, Head Start and elementary school

buses, etc.

- Routes parents most often use to travel to work, school, the grocery store, etc.
- Distance from elementary schools, Head Start and other part-day programs for children.
- Distance from food service if meals will not be prepared on site.
- Distance from health and emergency services.

Some sites should be avoided since they may pose health or safety risks to children. For example:

- Property adjacent to a major highway, near a landfill or dump, or a business that may produce toxic fumes or pose other health threats to children.
- Isolated property that is not easily accessible for parents, staff or emergency vehicles.
- Property that lacks a safe water supply.
- Property in a floodplain, or one that tends to have pools of standing water.

There are also financial factors to consider such as:

- The cost of bringing utilities onto the property (water, electric, gas/propane, sewer, telephone) including soil, water and other environmental tests.
- The cost of preparing the site for construction such as removal of old buildings, leveling the ground, upgrading roads leading to the site, grading and surfacing driveways and parking lots.

II. Land Ownership

Once a general location(s) has been identified, determining who owns specific property and whether the owner is willing to sell, lease or donate the property for a tribal child care center becomes the next hurdle.

If the land is located within the boundaries of a reservation, the Bureau of Indian Affairs (BIA) Realty Office, usually located at the agency, should be able to identify the land owner or verify that the land is tribal trust property. Permission to use tribal trust property is generally granted by the Tribal Government with approval from BIA. Some individual property owners will be able to negotiate the use of their property while others may need the approval of the BIA and/or Tribal Government. This process will vary from Tribe to Tribe. The BIA Realty Office or the Tribal Government can provide the specific tribal procedures that should be followed for gaining permission to construct on reservation lands.

To identify the owner of off-reservation property, a records search can be conducted at the County Courthouse.

Other entities that may own property suitable for a child care center include school districts, churches, city, county or state governments. Often they are willing to donate or lease property, especially if the community will benefit. Businesses will sometimes donate property for a tax break or to promote good will.

Before using funds for the purchase or lease of land, contact the funding source to determine if such use is

allowable. Tribes may want to consider long-term land lease agreements for modular structures but not for permanent construction. Any contract for the purchase, lease or donation of land should be between the Tribal Government and the current land owner. Agreements should be in writing and reviewed by a lawyer.

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Chapter 3: Financing Construction and Renovation Costs

I. **Potential Funding Sources**
II. **Managing Multiple Funding Sources: An Overview of Cost Allocation**

I. Potential Funding Sources

Program Funding: Loans for Construction, Renovation, and Land Purchase
The *Catalog of Federal Domestic Assistance* is an annual government-wide compendium of federal programs, projects, services, and activities. The listings in this section include the program name and *Catalog of Federal Domestic Assistance* (CFDA) number (in parentheses); the eligibility requirements for the program; the total funds available per year for the program; the uses, requirements, and limitations of the program; and contact information.

For more detailed information about these programs, visit the CFDA on the Web at **http://www.gsa.gov/fdac** (Internet site of the General Services Administration) and query the catalog on the CFDA number.

Business and Industry Loans (10.768)

Eligibility: Tribes.

Total Funds Available per Year:

Direct Loans: $50,000,000/1999 est.
Guaranteed Loans: $1,000,000,000/1999 est.

Range of Financial Assistance:

Direct Loans: $35,000 to $10,000,000
Guaranteed Loans: $35,000 to 25,000,000

Average of Financial Assistance:

Direct Loans: $383,000
Guaranteed Loans: $1,245,000

Uses/Requirements/Limitations:
Financial assistance may be extended for modernization, development costs, purchasing and development of land ... buildings, facilities, leases or materials; purchasing equipment, etc.

Loans may not be made or guaranteed to pay off a creditor in excess of the value of the collateral, for distribution of payment to the owner, ... for the transfer of ownership of a business unless the loan will keep the business from closing, or prevent the loss of employment opportunities in the area, or provide expanded job opportunities, etc.

Information Contacts:
Regional or Local Office: Contact the appropriate Rural Development State Office

Headquarters Office:
Administrator, Rural Business-Cooperative Service
U.S. Department of Agriculture
Washington, DC 20250-3201
(202) 690-4737

Child Care and Development Fund Discretionary Fund (93.575)

Eligibility: States, the District of Columbia, Territories, Federally recognized Tribal governments, Tribal organizations, Alaska Native organizations, and Native Hawaiian
organizations.

Total Funds Available per Year: $1,002,672,000/1999 est.

Range of Financial Assistance: Not applicable/based on a formula.

Average of Financial Assistance: Not applicable/based on a formula.

Uses/Requirements/Limitations:
Grantees must operate under a plan approved by the U.S. Department of Health and Human Services (HHS), and must certify compliance with all federal regulations governing the payments under the Child Care and Development Fund. Only approved construction of child care facilities by Tribal grantees is an allowable construction use of funds.

Information Contacts:
Regional or local office: Regional ACF administrators.

Headquarters Office:
Child Care Bureau
Administration on Children, Youth and Families
Administration for Children and Families
U.S. Department of Health and Human Services
330 C Street SW, Room 2046
Washington, DC 20447
(202) 690-6782

Child Care Mandatory and Matching Funds of the Child Care and Development Fund (93.596)

Eligibility: Federally Recognized Tribal Governments, Tribal organizations, and Alaskan Native Corporations.

Total Funds Available per Year: $2,167,000,000/1999 est.

Range of Financial Assistance: Not applicable/based on a formula

Average of Financial Assistance: Not applicable/based on a formula

Uses/Requirements/Limitations:
Grantees must operate under a plan approved by the U.S. Department of Health and Human Services (HHS), and must certify compliance with all federal regulations governing the payments under the Child Care and Development Fund.

Only approved construction of child care facilities by Tribal grantees is an allowable construction/renovation use of funds. Please refer to Program Announcement Number ACYF-PA-CC-97-03 titled Native Hawaiian and Nonprofit Organization Child Care Grants.

Information Contacts:
Regional or Local Office: Regional ACF administrators

Headquarters Office:
Child Care Bureau
Administration on Children, Youth and Families
Administration for Children and Families
U.S. Department of Health and Human Services
330 C Street SW, Room 2046
Washington, DC 20447
(202) 690-6782

Community Development Block Grant Program for Indian Tribes and Alaska Native Villages (14.862)

Eligibility: Tribes, Tribal organizations and Alaska Native villages that are eligible for assistance under the Indian Self-Determination and Education Assistance Act, or that had been eligible under the State and Local Fiscal Assistance Act of 1972.

Total Funds Available per Year: $68,305,105/1999

Average of Financial Assistance: $485,372 average grant in FY1997

Uses/Requirements/Limitations:
Indian Community Development Block Grant (ICDBG) funds may be used for: public facilities and improvements ... acquisition, construction, reconstruction, rehabilitation or installation of public facilities and improvements.

... to improve the housing stock, provide community facilities, make infrastructure improvements, and expand job opportunities by supporting economic development.

Activities that are eligible for funding include housing rehabilitation, ... construction of Tribal and other facilities for single or multi-use, streets and other public facilities, and economic development projects particularly those by nonprofit tribal organizations or local development corporations when the recipient determines that the provision of such assistance is appropriate to carry out an economic development project.

Information Contacts:
Regional or Local Office: Contact the appropriate U.S. Department of Housing and Urban Development (HUD) Office of Native American Programs Field Office

Headquarters Office:
Office of Native American Programs
U.S. Department of Housing and Urban Development
Suite 3990, P.O. Box 90
1999 North Broadway
Denver, CO 80202
(303) 675-1600

Community Development Block Grants/Special Purpose Grants/ Technical Assistance Program (14.227)

Eligibility: Tribes may benefit from these funds, but do not apply for them directly. States, units of general local government and areawide planning organizations may apply.

Total Funds Available per Year: $10,000,000/1999 est.

Range of Financial Assistance: $14,000 to $1,300,000

Average of Financial Assistance: $183,000

Uses/Requirements/Limitations:
Assistance may be used to transfer skills and knowledge in planning, developing, and administering the Community Development Block Grant.

Project activities show how they will increase the effectiveness with which eligible block grant communities can use CDBG funds to meet community development national and local program objectives.

Information Contacts:
Regional or Local Office: Contact the appropriate U.S. Department of Housing and Urban Development (HUD) Field Office

Headquarters Office:
Office of Management and Technical Assistance
Community Planning and Development
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410
(202) 708-3176

Community Development Block Grants/States' Program (14.228)

Eligibility: States (Some states may allow Tribes which are not federally recognized
to apply for funds through counties.)

Total Funds Available per Year: $1,267,700,000/1999 est.

Range of Financial Assistance: Amount determined by formula

Average of Financial Assistance: Amount determined by formula

Uses/Requirements/Limitations:
States develop their own programs and funding priorities.

Units of general local government funded by the state may undertake a wide range of activities directed toward neighborhood vitalization, economic development, or provision of improved community facilities and services. Specific activities that can be carried out with block grant funds include acquisition of real property, reallocation and demolition, rehabilitation of residential and nonresidential structures, ... and provision of public facilities and improvements, such as ... neighborhood centers.

Information Contacts:
Regional or Local Office: Contact the appropriate U.S. Department of Housing and Urban Development (HUD) Field Office

Headquarters Office:
State and Small Cities Division
Office of Block Grant Assistance
Community Planning and Development
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, DC 20410
(202) 708-1322

Community Facilities Loans and Grants (10.766)

Eligibility: Federally recognized Tribes or Tribes on state/federal reservations.

Total Funds Available per Year:

Direct Loans: $200,000,000/1999 est.
Guaranteed Loans: $210,000,000/1999 est.
Grants: $8,237,000/1999 est.

Range of Financial Assistance:

Direct Loans: $50,000 to $2,500,000
Guaranteed Loans: $100,000 to $2,500,000
Grants: $10,000 to $100,000

Average of Financial Assistance:

Direct Loans: $447,521
Guaranteed Loans: $905,594
Grants: $35,189

Uses/Requirements/Limitations:
Community facilities include but are not limited to those providing or supporting overall community development such as fire and rescue services; transportation; community, social, cultural, and health benefits; industrial park sites; access ways; and utility extensions.

All facilities financed in whole or in part with RHS funds shall be for public use.

Information Contacts:
Regional or Local Office: Contact the appropriate Rural Development County or District Office, or contact the appropriate Rural Development State Office

Headquarters Office:
Deputy Administrator, Community Programs
Rural Housing Service
U.S. Department of Agriculture
Washington, DC 20250-3222
(202) 720-1490

Indian Economic Development (15.032)

Eligibility: Federally Recognized Indian Tribal Governments.

Total Funds Available per Year: $3,299,000/1999 est.

Range of Financial Assistance: $50,000 to $300,000

Average of Financial Assistance: $215,000

Uses/Requirements/Limitations:
Funds are used to administer tribal revolving loan programs and guaranty loan programs in order to develop resources to improve access to capital in tribal economies.

Information Contacts:
Regional or Local Office: Applications may be filed with the local Bureau of Indian Affairs agency office

Headquarters Office:
Office of Economic Development
Bureau of Indian Affairs
U.S. Department of the Interior
1849 C Street NW, MS-2061
Washington, DC 20240
(202) 501-7861

Indian Loans – Economic Development (15.124)
(Loan Guaranty Program)

Eligibility: Federally Recognized Indian Tribal Governments, Native American Organizations authorized by Indian tribal governments, and individual American Indians

Total Funds Available per Year: $5,005,000/1999 est.

Range of Financial Assistance:

For individuals and tribal enterprises: $2,500 to $500,000
For Federally Recognized Tribal Governments and
Native American Organizations: $10,000 to $5,500,000

Average of Financial Assistance:

For individuals and tribal enterprises: $125,000
For Federally Recognized Tribal Governments and
Native American Organizations: $1,500,000

Uses/Requirements/Limitations:
Loans may be used to finance commercial, industrial, agricultural, or business activities organized for profit.

Funds may not be used for speculation.

The financial assistance must be used on or near an Indian Reservation.

Information Contacts:
Regional or Local Office: Lendees must submit applications to the local Bureau of Indian Affairs agency office or with the Tribal Government administering the program.

Headquarters Office:
Office of Economic Development
Bureau of Indian Affairs
U.S. Department of the Interior
1849 C Street NW, MS-2061
Washington, DC 20240
(202) 208-5324

Indian Tribes and Tribal Corporation Loans (10.421)

Eligibility: Federally recognized Tribes or Tribal corporations or Alaskan communities that meet specific criteria

Total Funds Available per Year: $1,003,000/1999 est.

Range of Financial Assistance: $450,000 to $2,000,000

Average of Financial Assistance: $224,000

Uses/Requirements/Limitations:
Loan funds may be used to acquire land for the use of the Tribe or its members.

Funds may also be used for incidental costs connected with land purchase.

Loan funds cannot be used for any improvement or development purposes, acquisition or repair of buildings...etc.

Information Contacts:
Regional or Local Office: Contact the appropriate FSA State Office

Headquarters Office:
Director, Loan Making Division
Farm Service Agency
U.S. Department of Agriculture
Ag Box 0522
Washington, DC 20250
(202) 720-1632

Intermediary Relending Program (10.767)

Eligibility: Federally recognized Tribes.

Total Funds Available per Year: $35,000,000/1999 est.

Range of Financial Assistance: $250,000 to $2,000,000

Average of Financial Assistance: $773,810

Uses/Requirements/Limitations:
An entity that receives an Intermediary Relending Program (IRP) loan from the Rural Business-Cooperative Service (RBS) is referred to as an intermediary. Intermediaries must relend all of the loan funds received from the IRP loan, for business facilities or community development in rural areas.

An entity that receives a loan from an intermediary is referred to as an ultimate recipient. The maximum loan to any one intermediary is $2 million. The maximum term is 30 years and the interest rate is 1 percent per annum. Intermediaries may not use IRP funds to finance more than 75 percent of the cost of an ultimate recipient's project or for a loan of more than $150,000 to one ultimate recipient.

Information Contacts:
Regional or Local Office: Contact the appropriate Rural Business-Cooperative Service (RBS) State Office

Headquarters Office:
Rural Business-Cooperative Service
U.S. Department of Agriculture
South Agriculture Building, Room 6321
Washington, DC 20250-0700
(202) 690-4100

Rural Development Grants (10.769)

Eligibility: Tribes on state/federal reservations.

Total Funds Available per Year: $40,300,000/1999 est.

Range of Financial Assistance: $2,000 to $1,500,000

Average of Financial Assistance:

Uses/Requirements/Limitations:
Rural business enterprise grant funds may be used to establish revolving funds, provide operating capital, and finance industrial sites in rural areas, including the acquisition and development of land and construction, conversion, enlargement, repair or modernization or buildings, etc.

Information Contacts:
Regional or Local Office: Contact the appropriate Rural Development District Office,
or contact the appropriate Rural Development State Office

Headquarters Office:
Director, Specialty Lenders Division
Rural Business-Cooperative Service
U.S. Department of Agriculture
Washington, DC 20250-3222
(202) 720-1400

Special Economic Development and Adjustment Assistance Program (11.307)

Eligibility: Tribes.

Total Funds Available per Year: $175,393,116/1999 est.

Range of Financial Assistance: No specific minimum or maximum

Average of Financial Assistance: No specific minimum or maximum

Uses/Requirements/Limitations:
To assist state and local areas suffering from sudden and severe economic dislocation such as plant closings, military base closures and defense contract cutbacks, and natural disasters, or from long-term economic deterioration in the area's economy. Grants may be made to develop or implement an economic adjustment strategy. Implementation grants may be made for the construction of public facilities, business development and financing (including revolving loan funds), technical assistance, training or any other activity that addresses the economic adjustment problem.

Information Contacts:
Regional or Local Office: Contact the appropriate Economic Development Administration

Headquarters Office:
Director, Economic Adjustment Division
Economic Development Administration
Herbert C. Hoover Building`, Room H7327
U.S. Department of Commerce
Washington, DC 20230
(202) 482-2659

II. Managing Multiple Funding Sources: An Overview of Cost Allocation

This summary of cost allocation principles and practices as they relate to managing multiple funding sources for Tribal facilities is organized as follows:

- What is cost allocation?
- How do you do cost allocation?

What is cost allocation?

Cost allocation is a systematic way of sharing costs among Tribal child care, Head Start and other early care and education programs that are engaged in joint purchase, construction, renovation, rental, or other uses of facilities. The Tribe must set forth its approach in a written cost allocation plan. The plan generally will cover other program costs in addition to facilities. Cost allocation is an important aspect of strategic planning. Accordingly, program leadership should work closely with fiscal and accounting specialists in shaping critical decisions in the cost allocation plan.

The discussion in this part of the *Guide* focuses on joint facilities of child care, as funded in whole or in part by the Child Care and Development Fund (CCDF) and federal Head Start. Similar issues and procedures apply in the case of other early care and education program funding.

The following three principles must be kept in mind when planning for cost allocation. Costs must be:

1. Allowable – meeting the legal and regulatory requirements of the program funding source; uniform and consistently applied within the Tribal early care and education program; in accordance with applicable grant and cost allocation methods; and documented.
2. Reasonable – if a prudent person would approve the cost under the conditions at the time that the cost was incurred; ordinary and necessary; makes good business sense; if individuals acted without conflict of interest.
3. Allocable – must reflect relative benefits to all of the partners who are sharing costs.

Cost allocation plans need to be:

- Written and documented;
- Reinforced by accounting records;
- Comprehensive, covering all costs, both direct and indirect, that are to be allocated;
- Followed consistently;
- Monitorable – programs must review the plan as the year progresses; and
- Auditable – the Tribal auditor should be the primary reviewer.

How do you do cost allocation?

The discussion below draws upon and adapts guidance materials presented at national and regional ACF meetings, including *Managing Multiple Funding Streams*, sponsored by Region IV Administration for Children and Families and Region IV Head Start Quality Improvement Centers, November 1998.

While the following discussion focuses on Tribal facilities, it should be kept in mind that the cost allocation plan commonly will address a broad range of program costs (e.g., personnel, equipment, supplies, food, transportation). The cost allocation process generally includes six steps:

1. Clearly define what, where and how the Tribe provides services, including eligibility and enrollment status;
2. Identify what costs need to be allocated;
3. Determine the method (or methods) for allocating the costs;
4. Perform the actual allocation and enter into the accounting records;
5. Periodically track the allocations by monitoring the levels of program expenditures and comparing them to the total revenue available for child care, Head Start and other early care and education programs; and
6. Periodically review the methods for consistency and accuracy.

The Tribe may wish to test several cost allocation methods in the planning stage and then select the one that is the simplest, most straightforward way of allocating costs. Allocations may be expressed as a percentage

of children, percentage of employees, child hours, child days, or some other equitable method. For facilities or occupancy costs, the likely choices for allocation would include number of children, child hours, and square feet.

Costs that need to be allocated are those shared by more than one program, but not necessarily all programs of the Tribe. The Tribe should discuss the procedure it elects to follow with the appropriate ACF Regional Office to ensure that it is consistent with applicable policy requirements.

For additional policy regarding cost allocation, see ACYF-PIQ-CC-99-01, issued February 24, 1999 (Appendix E).

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Chapter 4: Developing a Business Plan for the Facility

I. **Introduction**
II. **Preparing a Strategic Plan**
III. **Preparing a Detailed Business Plan**
IV. **The Business Plan Worksheet**
V. **Financial Planning**

I. Introduction

A written business plan is an important initial step that helps formalize and document efforts to construct a child care facility. A plan is also necessary to assess whether the agency has sufficient resources to operate the facility on an ongoing basis. Developing a plan and putting it in writing are crucial to laying the groundwork for the ultimate goal – implementing the plan. A formal business plan is as important for an established agency as it is for a start-up project. It serves four critical functions:

- Helps research, focus, and clarify a program's development and prospects;
- Provides a framework within which the agency can develop and pursue business strategies over the next one to five years;
- Serves as a basis for discussion with third parties such as funding agencies, collaborative partners, banks, and stakeholders; and
- Offers a benchmark against which actual performance can be measured and reviewed.

Just as no two businesses are alike, no two business plans are alike. It is therefore important to tailor a plan's contents to suit individual circumstances. Nonetheless, most plans follow a similar structure, and general advice on preparing a plan is universally applicable. A business plan should be a realistic view of the expectations and short- and long-term objectives of the agency. It provides the framework within which the agency must operate and, ultimately, succeed or fail. The plan serves as a key sales document for management seeking external support such as additional funding since it may well be the key to raising financing. Preparation of a comprehensive plan will not guarantee success in raising funds or mobilizing support, but lack of a sound plan will almost certainly ensure failure.

Preparing a satisfactory business plan forces managers and other stakeholders to clarify what they want to achieve as well as how and when they can do it. Even if no external support is needed, a business plan can

play a vital role in helping avoid mistakes or recognizing hidden opportunities. Many find that the process of planning (thinking, discussing, researching and analyzing) is just as – or even more – useful than what emerges as the final plan. Even if you don't need a formal plan, going through the planning process could be enormously beneficial to your operation. You must determine who will take part in the business plan development and ensure that all stakeholders are represented. Consider involving staff, management, policy groups, community members, collaborative partners and others with an interest in your program's operation and success. Develop a schedule that is sensitive to the schedules of all participants – their input will be extremely valuable. Anticipate many days of hard work and several drafts to get the job done right.

A clearly written and attractively packaged business plan makes it easier to interest potential supporters, funding agencies and other sources of financing. A well-prepared business plan demonstrates knowledge of the project and shows that stakeholders have thought through its development in terms of finances and management. The plan should also take into consideration markets and competition – areas often overlooked in human services administration. These areas should receive attention during the community assessment process, and should incorporate the data gathered.

II. Preparing a Strategic Plan

A short strategic plan (2-3 pages) can provide a useful foundation upon which to base a more detailed business plan. As the prelude to developing the strategic plan, identify the current status, objectives and strategies of existing programs along with the latest thinking in respect to a new venture. For example, you should evaluate and consider collaboration among programs as part of current and proposed program design. If you define your plan elements correctly, you can use them as the basis for a critical examination on existing or perceived strengths, weaknesses, opportunities and threats (S.W.O.T. analysis). Analysis will then allow you to address the following issues:

- Vision
- Mission
- Objectives
- Values
- Strategies
- Goals

First, you must develop a realistic **vision** for the agency. Present a realistic picture of the future in three or more years in terms of its likely physical appearance, size and activities. Answer this question: "If someone visited us in three years, what would they see or sense?"

Second, express the nature of the program through its mission, which indicates its purposes for service delivery. For example, "to offer affordable, quality child care services that will meet the needs of our target population." A statement along these lines indicates what the program is about and is clearer than saying, for instance, "we're in child care." Some people confuse mission statements with value statements – the former should be concise while the latter can deal with "softer" issues.

Third, state the program's **objectives** in terms of the results you need and want to achieve in the medium- and long-term. Objectives should relate to the expectations and requirements of all the major stakeholders, including employees and customers, and should reflect the underlying reasons for operating the program.

Next, address the **values** governing the operation of the program and its conduct or relationships with the community, customers, and employees.

Develop **strategies** to define the rules and guidelines by which you will achieve your mission and

objectives. They may cover the business as a whole, including such matters as diversification, growth, or funding strategies, or they may relate to primary matters in key functional areas:

- The agency's collaborative efforts with other child care providers;
- New services that will enhance existing ones over the next three years; and
- Facilities enhancement.

Finally, set goals with specific interim or time-based measurements to be achieved using strategies in pursuit of the agency's objectives. For example: "We will provide services to an additional 20 families within the next 24 months."

Remember that the mission, objectives, values, strategies and goals must be interlinked and consistent with each other. Upon completion, review all aspects of the plan to ensure they are consistent in purpose and outcome.

III. Preparing a Detailed Business Plan

Before commencing any detailed work on the plan, the authors should:

- Clearly define the target audience;
- Determine its requirements in relation to the contents and levels of detail;
- Map out the plan's structure (table of contents page);
- Decide on the likely length of the plan; and
- Identify all the main issues to be addressed.

You must identify shortcomings in the concept and gaps in supporting evidence and data. This will allow for completion of an assessment of research prior to starting the draft. Remember that a business plan is the end result of a careful process of research, discussion and evaluation.

Structure and Content

A typical business plan includes the following main elements:

1. A brief **Introduction**, which defines the plan's background and structure.
2. A **Summary**, which highlights the main issues and proposals (1-3 pages).
3. The **Main Body**, which contains chapters divided into numbered sections and subsections.
4. **Appendices**, which contain tables, exhibits and other detailed information referred to in the text.

Length and Timeframe

While the length of a business plan may bear no relation to the underlying prospects of a business, well-developed plans generally run at least 20 pages long, plus appendices. Set aside 5 – 20 days to produce the plan. While the task of writing the plan itself may take a relatively short time, be sure to allow ample time for the research, preparatory work and underlying brainstorming and discussion.

Practical Hints

Outside help and guidance in preparing a business plan can be extremely valuable. If you use outside help, you must ensure that the final plan remains your own and not that of your advisers.

The following suggestions may be of assistance:

1. Consider using a personal computer and a spreadsheet or other financial modeling software package for the financial projections.
2. When drafting the plan, be positive but realistic about the agency's prospects and acknowledge and respond honestly to shortcomings and risks.
3. The plan's management section is crucial. Consider forming a management team or strengthening management as part of the plan.
4. When writing the plan, remember to:

- Avoid unnecessary jargon;
- Economize on words;
- Use short crisp sentences and bullet points;
- Concentrate on relevant and significant issues;
- Break the text into numbered paragraphs and sections;
- Provide detail in appendices;
- Provide a table of contents page and number the pages; and
- Write the summary last.

5. Have a qualified outsider review your plan in draft form and be prepared to revise it.
6. Back up revenue and expense projections with market research. Ensure that there is a direct relationship between market analysis, revenue forecasts and financial projections.
7. Be realistic about revenue expectations (e.g. consider the impact of non- attendance), cash flow analysis and funding requirements. Do not underestimate the cost and time required for advertising, start-up costs, securing external support or raising funds. Consider hidden costs such as employee absences.
8. If seeking external funding, be realistic about the future of the project, the risks involved and possible returns. Give consideration to contingencies such as emergency building-repair costs and vehicle repair.
9. Incorporate available data such as market rate analysis, census information and financial information such as grant proposals and funding awards. Include data found on construction checklists and funding requests. Don't reinvent the wheel.

IV. The Business Plan Worksheet

The Model Business Plan Structure (Table A, pp. 38-39) could serve as the basis for a "full-blown" business plan by expanding the level of detail given. Ideal page lengths for a straightforward but comprehensive plan are given in parentheses. Include detail in accompanying appendices. Keep in mind that most funding agencies dislike having to read overly long business plans.

Model Business Plan Structure

I. Introduction (1)
Introduce the plan.

- Who wrote it (list staff members, policy groups, community members)
- Contact information
- When written
- Process used during writing (focus groups, surveys)

II. Summary (1-3)
Write this section last. Summarize the major points of your document.

III. Mission, Strategies etc. (1-2)
What are the central purposes and activities of the planned and/or current program.

- What are its SWOTs (Strengths, Weaknesses, Opportunities, Threats) ?
- What are its major objectives, key strategies and prime goals ?

IV. Present Status of Project (1-3)
Summarize achievements and performance (financial, etc) to date.

- Introduce the stakeholders and/or collaborative partners in the program.
- Describe existing and planned inter- /intra-agency agreements.
- Describe current projects and/or programs being operated by the agency that are relevant.

V. Service Description (1-2)
Keep descriptions short and confine them to broad groups. Explain briefly what makes them special.

- Define program linkages.
- Define ancillary services such as health, dental, food services, transportation etc.
- Describe current program options being used by the agency (home-care, center services, certificate programs)

VI. Profile of Target Market(s) (2-3)
Identify size, segments, trends, competition and user/customer profiles.

- Utilize data from community assessments, census reports.
- Gather information from internal planning departments.

VII. Marketing Strategies (2-3)
Determine how the program will market its services to customers.

- Describe proposed use of advertising, word-of-mouth, public service announcements.
- Is there competition in the area?
- Define costs that will be incurred for marketing.

VIII. Technology (0-2)
Explain progress, plans, and resources and highlight technological advances such as computerization of operations, Internet use, program uses of technology, etc..

IX. Operational Plans (2-3)
Cover service activities.

- Indicate organizational structure.
- Describe available resources.
- Describe the proposed fee structures, sliding fee scales etc.
- Describe the administrative plan, such as accounting systems, fee collection procedures.

X. Management (1-2)
Introduce the proposed management team and structure.

- Indicate overhead costs.

XI. Financial Position & Projections (2-3)
Use simple tables to present key financial projections.

- Include summary Profit and Loss, Statement of Cashflows, Balance Sheets.
- Describe in-kind contributions.
- Describe the potential revenue flow from grants, contracts, fees for service, USDA and other sources.
- Consider the possibility of uncollectible accounts and have a written policy to resolve these accounts.
- Place the detailed analyses in appendices.

XII. Funding Requirements & Proposals (2-3)
If applicable, summarize other funding requirements, possible sources, likely terms.

XIII. Implementation (1-3)
Explain the major decision points, time scale and actions required by management and others to progress the plan.

XIV. Conclusion (1)
Indicate why the program and/or project will succeed and why it should be supported.

V. Financial Planning

The financial projections that are included in your business plan are often considered to be the "heart" of the plan. They quantify your plan in terms of dollars and cents and units of service, and serve as an evaluation point for the viability of the program or project. It will be helpful to enlist assistance from your agency accounting department in the preparation of these estimations.

Break down your financial data into monthly projections for years one and two and into annual projections thereafter. Based upon this, you should include the following in your plan:

- Profit and Loss Statement (also called Statement of Revenue and Expense)
- Balance Sheet
- Cash Flow Statement

Profit and Loss Statement

Based upon the operations plan you have developed, determine projected revenues and expenditures over time. Take the following points into consideration:

- Include all sources of revenue including projected USDA revenue, grant income, parent fees (be realistic when determining your collection rate).
- Include all expenditures including "hidden costs" such as employee absence, indirect cost, and annual costs such as licenses and fees.
- Be aware that some costs, such as food, vary (variable costs); some costs, such as administrative

salaries are fixed (fixed costs).
- Use historical data for estimations, but be aware of potential fluctuations in variable costs such as salary and fringe benefits.
- Take into consideration in-kind revenue, which may reduce actual costs of the program.
- Remember to consider the effects of collaborative agreements and cost allocation on your forecasts.

The Profit and Loss Statement prepared for your Business Plan can serve as the basis for your ongoing Operating Budget and should be adjusted periodically as necessary to reflect the actual operations of the program.

Balance Sheet

The Balance Sheet provides a profile of the monetary "worth" of the program or agency at a given point in time. This statement lists all of the program's assets (cash, accounts receivable, inventory, real estate, etc.) and all of the program's
liabilities (accounts payable, payroll taxes payable, notes payable, etc.) The difference between these two amounts is the agency or program's "net worth," or for non-profit agencies "fund balance." The Balance Sheet will give you an idea as to whether you "owe more than you have." Be sure to enlist the help of the agency Accounting Department in developing this statement.

Cash Flow Statement

When planning the short- or long-term funding requirements of your program, it is important to forecast the likely cash requirements. While profit – the difference between revenue and expenses within a specified period – is a vital indicator of the performance of the program, the generation of a profit does not necessarily guarantee its development, or even the survival. Lack of operating cash can result in the failure of a program.

Revenues and costs – and, therefore, profits – do not necessarily coincide with their associated cash inflows and outflows. While revenue may have been generated (for example, a day of service may have been provided), the related payment may be deferred as a result of the billing process. However, at the same time, payments must be made to staff and suppliers, cash must be invested in purchasing food, and new equipment may have to be purchased.

The net result is that cash receipts often lag behind cash payments and, while profits may be reported, the program may experience a short-term cash shortfall. (Remember, it is not acceptable to "borrow" from other programs that may have cash available, such as Head Start.) For this reason it is essential to forecast cashflows as well as potential project profits.

The following simplified example illustrates the timing differences between profits and cashflows for a one-month period:

Income Statement:

	Month 1
Revenue:	$7,500
Costs:	$6,500
Profit:	$1,000

Cashflows relating to Month 1:

	Month 1	Month 2	Month 3	Total
Receipts	2,000	3,500	2,000	7,500
Payments	4,000	2,000	500	6,500
Net Cashflow	(2,000)	1,500	1,500	1,000
Cumulative Net Cashflow	(2,000)	(500)	1,000	1,000

The table shows that the cash associated with the reported profit for Month 1 will not fully materialize until Month 3 and that a serious cash shortfall will be experienced during Month 1, when receipts from revenue will total only $2,000 as compared with cash payments to staff and suppliers of $4,000. Normally, the main sources of cash inflows to a program are grant proceeds, increases in bank loans, parent fees, donations and asset disposals, and other income such as interest earned. Cash outflows include payments to staff and suppliers, capital and interest repayments for loans, and capital expenditure for equipment.

Net cashflow is the difference between the inflows and outflows within a given period. A projected cumulative positive net cashflow over several periods highlights the capacity of a program to generate surplus cash and, conversely, a cumulative negative cashflow indicates the amount of additional cash required to sustain the program. Cashflow planning entails forecasting and tabulating all significant cash inflows relating to revenue, new loans, interest received, etc., and then analyzing in detail the timing of expected payments relating to suppliers, wages, other expenses, capital expenditure, loan repayments, interest payments etc. The difference between the cash in- and out-flows within a given period indicates the net cashflow. When this net cashflow is added to or subtracted from opening bank balances, any likely short-term bank funding requirements can be determined.

Using a Computer

With the aid of a computer, a mathematical model can be used to prepare cashflow projections and project short-term cash requirements for a program. The use of a computer-based model reduces the tedium of carrying out numerous repetitive calculations and simplifies the alteration of assumptions and the presentation of results. A computer-based model can be constructed using a spreadsheet. A cashflow model can be used to compile forecasts, assess possible funding requirements and explore the likely financial consequences of alternative strategies. Used effectively, a model can help prevent major planning errors, anticipate problems, identify opportunities to improve cashflow or provide a basis for negotiating short-term funding from a bank.

However, the quality of these projections will be determined by the standard and reliability of the underlying assumptions. For example, if forecasts for revenue or costs are unrealistic or inadequately researched, then the value of the model's output is greatly diminished. An impressive set of projections is of little benefit if it is unsupported by experience or research or based on mere speculation. In fact, it could be very damaging, or even destroy the project.

Remember the following points when preparing a Statement of Cash Flows:

- Check that all key assumptions and data are at hand and have been adequately researched.
- Compile opening balances for all items that will involve cashflows within the forecasting period.
- Estimate collection rates for parent fees realistically.
- Consider billing cycle time frames for grant payments and contract payments.

Once the cashflow projections have been prepared, they should be critically examined and used as a management tool to control and improve the program's expected cash position. All projections should be periodically reviewed and adjusted to reflect the status of current operations.

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Chapter 5: Conducting an Environmental Assessment

Tribal Lead Agencies requesting to use Child Care and Development Fund (CCDF) monies for construction or renovation are required to conduct an environmental assessment in accordance with the National Environmental Policy Act (NEPA). Guidance regarding compliance with NEPA is contained in Program Instruction ACYF-PI-CC-97-06, dated November 4, 1997 (Appendix C). The information below is designed to provide more practical guidance about items to consider in an assessment, as well as resources and contacts for obtaining additional information.

- An environmental assessment should be completed early in the planning process. This will allow the Tribe to determine whether or not the site selected for the child care facility is suitable before the start of later-stage planning, such as the development of architectural plans and specifications.
- Some Tribes have their own environmental or natural resource staff that may be able to help. In addition, the Bureau of Indian Affairs has Area Office Environmental Coordinators.
- General information concerning the National Environmental Policy Act of 1969 (NEPA) can be obtained from the Council on Environmental Quality.
  Call 202-456-6224 or visit http://ceq.eh.doe.gov/nepa/nepanet.htm on the Web.

The following areas may be considered part of an environmental assessment:

I. **Floodplain Management**
II. **Wetlands Protection**
III. **Protection of Endangered Species**
IV. **Toxic Chemicals and Radioactive Materials**
V. **Protection of Farmlands**
VI. **Historic Preservation**
VII. **Presence of Natural Hazards**
VIII. **Presence of Man-Made Hazards and Nuisances**

I. Floodplain Management

Federal policy strongly discourages the occupancy and development of a floodplain wherever there is a practicable alternative for a project.

"Floodplain" means the Special Flood Hazard Area (SFHA) identified on the flood maps published for the National Flood Insurance Program (NFIP) by the Federal Emergency Management Agency (FEMA). These maps should be referenced when inquiring whether a project is located within a floodplain. Flood maps are generally available for viewing in a community's land planning or building permit office. Flood maps are

also available through FEMA's Map Service Center. Call 800/358-9616 or visit the FEMA Map Service Center on the Web at http://www.fema.gov/home/MSC.

Mandatory Purchase of Flood Insurance

As a condition of funding approval, the property owner must purchase and maintain flood insurance whenever the owner's building is located within the Special Flood Hazard Area (SFHA) and is benefiting from federal assistance (Sec. 102(a) of the Federal Disaster Protection Act of 1972. Furthermore, the use of federal assistance is prohibited for a building located within the SFHA, unless the community in which the building is located is participating in the National Flood Insurance Program (NFIP) (Sec. 202(a) of the Act).

The NFIP is administered by the Federal Emergency Management Agency (FEMA) and is available only in communities that adopt and adequately enforce the requirements for floodproofing, elevating the construction of new buildings, or the substantial improvement of existing buildings located within the SFHA.

A "Flood Insurance Rate Map" (FIRM) published by FEMA can be used to determine whether a building is located within the SFHA and therefore subject to the flood insurance purchase requirements. Further information is contained in the FEMA publication entitled "Mandatory Purchase of Flood Insurance Guidelines." This publication is available on theWeb at http://www.fema.gov/nfip/mpurfi.htm.

The "Community Status Book," also published by FEMA, can be used to determine the status of a community's participation in the NFIP. This information is available on the Web at http://www.fema.gov/fema/csb.htm.

Call the FEMA Flood Insurance Information Hotline at 800/427-4661 for answers to flood insurance related questions.

II. Wetlands Protection

Wetlands protection is a national priority. Federal policy strongly discourages the modification or destruction of designated wetlands.

The U.S. Fish and Wildlife Services (FWS), Department of the Interior, publishes the National Inventory of Wetlands. This official listing should be referenced when inquiring whether a project is located within a designated wetland. For map information, call the FWS National Wetlands Inventory Center at 727/570-5412 or visit FWS on the Web at http://www.nwi.fws.gov.

III. Protection of Endangered Species

Compliance is required with the Endangered Species Act (ESA) of 1973, as amended, whenever federal financial assistance is proposed for a project that has the potential to affect endangered species or critical habitats. The list of endangered species is published by FWS, Department of the Interior, and should be referenced when inquiring whether a proposed project has the potential to affect endangered species or critical habitats. Generally, the list is available by counties. For information, call the nearest FWS office or visit FWS Endangered Species on the Web at http://www.fws.gov/r9endspp/endspp.html.

IV. Toxic Chemicals and Radioactive Materials

Particular attention should be given to any site that is located on, or in the general proximity of, such areas

as dumps, landfills, industrial sites or other locations that contain hazardous wastes. Such properties should be free from hazardous materials, contamination, toxic chemicals and gases, and radioactive substances, where a hazard could affect the health and safety of occupants or conflict with the use of the child care facility.

V. Protection of Farmlands

The Farmland Protection Policy Act requires identification of proposed actions that would affect any lands classified as prime and unique farmlands. The U.S. Natural Resources Conservation Service (http://www.nrcs.usda.gov) administers this act to preserve farmland. Contact the State Office of Agriculture or U.S. Natural Resources Conservation Service office in the project area and ask them to determine if the proposed action will affect any lands classified as prime and unique farmlands.

VI. Historic Preservation

The regulations concerning compliance with Section 106 of the National Historic Preservation Act of 1966 were issued by the Advisory Council on Historic Preservation as 36 CFR Part 800.

The person preparing the assessment should check the National Register of Historic Places to determine if the project is among or near any listed properties on the National Register.

A current listing of properties already on the National Register may also be accessed on the Web at http://www.cr.nps.gov/nr/nrhome.html. The current listing also includes all properties that have been nominated to the National Register.

In addition, it is necessary to consult the Tribal or State Historic Preservation Officer to find out whether those properties might be eligible for listing.

For additional information about the National Historic Preservation Act of 1966, contact the Advisory Council on Historic Preservation at 202/606-8503 or 202/606-8505 or on the Web at http://www.achp.gov.

VII. Presence of Natural Hazards

While there may be several types of natural hazards that could pose problems for a given site, some of the more prevalent of these hazards are presented below.

- **Radon**

  Radon is an odorless, colorless and tasteless gas that occurs in nature, seeping up from the earth. Radon is a result of the natural breakdown, or radioactive decay, of uranium and is present in trace amounts in all soils and rocks. Radon's migration patterns are not yet fully understood but the construction characteristics of a project as well as the soil and the rock beneath it are important factors in the accumulation of indoor radon, which is harmful to humans. The Environmental Protection Agency (EPA) has recommended a guideline of 4 pico/curies per liter of air for indoor radon (pico-curie = one-trillionth of a Curie or the equivalent of the decay of two radon atoms per minute in a liter of air). Additional information regarding the danger of radon may be obtained by contacting local EPA officials.

- **Subsidence**

  Subsidence causes a sinking or settlement of land areas that may result from various situations

such as: the pumping of ground water from the earth, "drying out" of boggy or water-ladened soils, or underground mining. The settlement caused by subsidence is not consistent but is instead shaped like an inverted cone. The low point of this cone continually shifts over the span of several years. It is important to consider this natural hazard because it has the ability to impact a site by altering drainage patterns or even reversing the direction of the flow of drainage water.

- **Soil Stability**

Different types of soil as well as erosion conditions may require particular foundations or engineered earthworks in order to ensure the stability of the project. The USDA Natural Resources Conservation Service (http://www.nrcs.usda.gov) publishes soil survey maps for each county. The maps provide a description and the characteristics of each soil type and series along with a legend giving the maximum slope for each soil name. If these soil surveys are not available or questionable conditions warrant further analysis, another soil survey may be required.

Where land developments include building foundations over filled ground or in areas where ground is removed and could result in swelling of exposed subsoil, the project should be controlled with an engineered earthwork.

Consideration should be given to the erosion conditions of a particular site. Erosion may damage soil stability either because of extensive rainfall or wind. If these conditions apply, it may require further evaluation by a soil engineer or similar expert.

- **Surface Faults and Seismic Zones**

Although surface faults and seismic zones tend to be particular to given areas, areas with this possibility may require a geological study to be performed. In cases where seismic activity is common, foundations should be engineered to withstand earthquake conditions.

VIII. Presence of Man-Made Hazards and Nuisances

- **Asbestos**

Asbestos is a fibrous fireproof material that in the past was used in numerous building products including insulation, exterior siding, roofing materials, plaster, and many others. Because of the extreme fineness of asbestos fibers, they can easily become airborne and hazardous to human health. Although the use of asbestos in building materials has been banned since 1978, any project involving the rehabilitation or demolition of a structure constructed before this date should consider asbestos as a potential problem. If a project is known or likely to have asbestos, it is recommended that the Environmental Protection Agency (http://www.epa.gov) and the Occupational Safety and Health Administration (http://www.osha-slc.gov/SLTC/asbestos/index.html) be contacted for guidance. (EPA published the National Emission Standards for Hazardous Air Pollutants for Asbestos at 40 CFR 61.141-158.)

- **Hazardous Dams**

In 1982, the U.S. Army Corps of Engineers completed a study of the National Program Inspection of Non-Federal Dams to determine which dams may be unsafe. Many of those

provided in this list are located on private property or are municipally owned. There is a separate listing for each state that may be obtained, along with additional information regarding the safety of a particular dam, from the Federal Emergency Management Agency (http://www.fema.gov).

- **High Voltage Transmission Electrical Lines**

  While it is known that transmission lines have electromagnetic fields that are harmful to humans, it is not known at what level of electromagnetic radiation this hazard occurs. In addition, the towers supporting electrical lines have posed risks when people, especially children, have attempted to climb their steel frames. For these reasons, child care facilities should be located a safe distance from electrical lines, and nearby towers should be fenced.

- **Lead and Lead-Based Paint**

  Childhood lead poisoning causes reduced intelligence, low attention span, learning disabilities and many other adverse health effects. In adults, it can cause nerve damage and decrease reproductive ability. About 80 percent of all homes built before 1980 have some lead-based paint. Many of those homes have only small amounts of such paint, but, generally, the older the home, the greater the amount of lead-based paint. Lead-containing paint was completely banned from residential use in 1978.

  The Residential Lead-Based Paint Hazard Reduction Act of 1992, known as "Title 10," set the current federal focus for lead paint poisoning on "lead-based paint hazards," which are conditions that cause health effects from exposure to lead-contaminated dust or soil, or lead-based paint that has or can become deteriorated. Most intact lead-based paint is not a "hazard," although the paint's condition should be monitored and maintained to ensure that it does not become deteriorated. Approaches for testing paint for lead and evaluating lead-based paint hazards are available. Contact the National Lead Information Center (800/424-LEAD and http://www.epa.gov/lead/nlic.htm).

  In addition to the hazards associated with lead-based paint, soil may be contaminated by lead from nearby industries or waste disposal sites, paint removal from bridges or other steel structures, and from old fallout of leaded gasoline emissions. Additional lead health risks can come from lead in drinking water.

Note: *Major portions of this document are excerpted from the Training Manual for HUD Staff to Conduct an Environmental Review, U.S. Department of Housing and Urban Development.*

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Chapter 6: Building a Facility

The information provided below is designed to assist your Tribe, tribal organization or department in designing, managing, and completing the construction of a child care center. (For purposes of this information, renovation is the same as construction.)

I. **Selecting and Working with an Architect**
II. **Designing and Planning the Facility**

III. Hiring a Contractor
IV. Overseeing the Project

I. Selecting and Working with an Architect

First and foremost, the architect should be licensed in the state where the project is located. A licensed architect provides not only a professional service, but a legal protection for the Tribe in the event of any disputes over applicable codes and regulations, misinterpretations by the contractor of the plans and specifications, and any errors and omissions in professional services delivery.

You should select the architect based on professional knowledge, experience, and understanding of the specifics of the project. An architect is selected by proposal, not by bid. In selecting an architect, the Tribe may apply a weighted evaluation criteria for minority architectural firms. However, the primary criteria in selecting an architect is professional knowledge, experience in working with similar projects, and understanding the cultural, social, and special concerns of the Tribe. The American Institute of Architects (AIA) or local or state chapters can provide information to a Tribe concerning architects who are qualified to design child care facilities in your area.

The use of a licensed engineer, in some instances, is acceptable. However, engineers are trained in more technical aspects of a project and may not have the creative problem-solving skills and training needed for many child care center designs. Architect/Engineer (A/E) fees for child care projects are normally between 6 and 15 percent. Most architectural fees will not exceed 10 percent of the total project cost and this normally includes project management.

The American Institute of Architects (AIA) Owner-Architect Contract form is recommended. It is important to know the Owner-Architect Contract form is a document registered and copyrighted and cannot be used by any entity except a licensed architect that is a member of the AIA. To accommodate any specific contractural needs or stipulations of the Tribe, the Owner-Architect Contract may be modified, by mutual agreement.

Contact AIA at:

American Institute of Architects
1735 New York Ave. NW
Washington DC, 20006
202-626-7300
Web site: http://www.aiaonline.com

II. Designing and Planning the Facility

The scope of the architect's work includes:

- A design plan that targets and schedules different dates for accomplishing various design phases (i.e., schematic, preliminary, final, etc.).
- A scope of work that clearly states the most cost-effective design and energy conserving systems.
- Cost estimates for each phase of design that allows the Tribe to make knowledgeable and informed decisions. As the design changes, based on input from the Tribe, the cost also changes until a final

design is agreed upon and budgeted.

- A set of final plans and specifications, approved by the Tribe. Depending on the funding agency, the plans and specifications may have to be reviewed and approved by a state or federal agency(s) (e.g., State Fire Marshall's Office, Office of the Building Code, Army Corp. of Engineers).

- Construction bid documents that are prepared once the final plans are approved by appropriate agencies and entities. An estimate of construction costs should be part of the bid documents.

- Scheduling, planning, and presiding over a pre-bid conference, and once a construction contract has been awarded, the pre-construction conference.

- Management and oversight of the day-to-day progress and work. The Tribe could hire a third party for project management, or this could be part of the architect's contract. A primary part of the architect's contractual responsibility to the Tribe is the legal and federal requirements that the project shall comply with and adhere to including:

    - Environmental Impact: National Environmental Policy Act of 1969 (NEPA), Public Law (PL. 91-190). NEPA sets up national policy goals and procedures for protecting and enhancing the environment. The Tribe must conduct an environmental assessment in accordance with guidance provided in ACYF-PI-97-06.

    - Floodplain Management: Executive Order 11988. The order requires agencies to avoid, where possible, constructing facilities within the confines of floodplains. If this can not be avoided, specific insurance restrictions are applied to protect federal interest.

    - Code Requirements: National Fire Protection Association (NFPA) publication no. 101, most recent edition, contains minimum life safety standards.

    - Accessibility: National and local requirements for accessibility are intended to help insure the rights of all individuals, including the disabled. The best known and most often used requirements are those based upon the American National Standards Institute (ANSI). Accessibility standards for the disabled are also included in the uniform Federal Accessibility Standards, Title II and III of the Americans with Disabilities Act (ADA).

    - National Historic Preservation Act of 1966: Section 106 requires consideration to the effects construction may have on a site listed on the National Register of Historic Places.

    - Earthquake Provisions-Occupational Safety and Health Act and Public Law 95-124: Legislation concerned with earthquake resistance of structures.

    - Relocation Assistance-Uniform Relocation Assistance and Real Property Acquisition Policies Act, PL. 91-646: Requires both services and payments be provided to persons and businesses displaced by a federally assisted project.

    - Potable Water-Occupational Safety & Health Act: Requires that potable water be provided to federally assisted construction projects.

    - Equal Employment-Executive Order 11246: For any contract or sub-contract that exceeds $10,000, no federally funded contractor can discriminate against any employee or applicant for employment because of race, color, religion, or sex.

- Federal Wage Rate-Davis Bacon and Related Acts: Requires all contracts exceeding $2,000 to pay federal wage rates. (Does not apply to projects solely funded by CCDF.)

The project shall also be developed according to applicable program or Tribal standards and other codes and ordinances including environmental and zoning requirements. The Uniform Building Code shall be used as a minimum in the absence of a local or Tribal building code.

III. Hiring a Contractor

Prior to hiring a contractor, the architect must prepare a bidding package and develop a bidding process. The minimum package and process requirements include:

A. Boiler Plate Specifications (standard items included before technical specifications)

1. Advertisement for Bid Form (or the Tribe may elect to solicit selected contractors, using pre-qualification criteria)
2. Bid Forms
3. Instructions to Bidders Form, including the method for award of contract (e.g., to the lowest bid or the lowest base bid in combination with alternates)
4. Bid Bond Form (5 percent Bid security)
5. Contract Form
6. Performance and Payment Bond Form (100 percent)
7. Contractor's Application for Payment
8. Construction Contract General Conditions (AIA form 201) and Supplementary Conditions (AIA form 201SC)
9. Equal Employment Opportunity (construction contracts exceeding $10,000)
10. Bonding and Insurance Requirements
11. Construction Contract Completion Time and Closeout Documents necessary for Substantial Completion

B. Cost Estimates:

The estimate of construction costs will be developed based on the final working drawings and specifications. The estimate shall not be divulged to outsiders for any reason.

C. Final Working Drawings:

Final working drawings will be 100 percent complete and adequate for bidding, contracting, and construction purposes. Drawings will be prepared for the architectural, civil, structural, mechanical, electrical, and other work. The architect may hire an engineering consultant for support as necessary during the design process.

D. Final Technical Specifications:

Final technical specifications supplement the final working drawings to fully describe types, sizes, capacities, and other characteristics of all materials, equipment, and installation techniques. It is recommended that the technical specifications format be based on the CSI Masterformat of the AIA Uniform System for Construction Specifications.

Specifications will include:

- Details of materials;
- Reference standards;
- Shop drawings;
- Sample submissions;
- Certifications; and
- Performance concepts.

Specifications are developed to insure competitive bidding without proprietary sole-source restrictions. When identifying materials or equipment by manufacturer's name, trade name, or catalog number, include the words, "or equal to...". This method of developing specifications is not designed to give preference to any one manufacturer but is merely to show a standard.Under the conditions of the contract, the contractor shall be allowed to furnish materials or equipment of manufacturers other than those identified by name that are acceptable to the project architect/engineer as comparable to that specified. [1]

The substitution clause may include the following language:

When a material, article, or piece of equipment is identified on the drawings or in the specifications by reference to manufacturer's or vendor's name, trade name, catalog number, or the like, it is only identified to establish a standard. Any material, article, or piece of equipment of other manufacturers or vendors that will perform equally or better the duties imposed by the general design will be considered equally acceptable provided the proposed items are, in the opinion of the architect, of equal substance, appearance, and function. These items shall not be purchased or installed by the contractor without the architect's written approval.

E. Equal Employment Requirements for Construction Contracts:

1. **Federal Executive Order 11246, effective October 24, 1965.**

   This executive order requires an equal employment clause in all federally assisted construction contracts. In signing a government contract or subcontract of more than $10,000, the contractor agrees not to discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin and will take affirmative action to insure that applicants are employed and the employees are treated fairly during employment without regard to these factors. If the contractor fails to comply with the nondiscriminatory clauses of the contract, or with the regulations of the Secretary of Labor, the contract may be canceled, terminated, or suspended in whole or in part and the contractor declared ineligible for further government contracts.

2. **The Office for Federal Contract Compliance (OFCC), U.S. Department of Labor.**

   This agency has federal responsibility for overseeing the implementation of Executive Order 11246 by the various federal departments and agencies. OFCC often prescribes written compliance requirements for construction contractors in designated geographical areas. In addition, it is OFCC policy that the approval of an area-wide agreement or the issuance of a hometown plan may include a state or local government's appending additional equal employment opportunity (EEO) requirements to federally assisted construction contracts and subcontracts where state and local funds are also involved in the construction.

F. Procurement requirements, 45 CFR Part 92.36:

Facility construction transactions must comply with the procurement procedures in 45 CFR Part 92.36 and be conducted in a manner that provides, to the maximum extent possible, open and free competition.

Under 45 CFR Part 92.36, the sealed bid method is the preferred method for procuring construction, when feasible. An invitation for bids by contractors involves the following steps, if the sealed bid method is used:

- Preparing invitation for bids, describing the building(s) design and specifications clearly, accurately, and completely by avoiding unclearly restrictive specifications or requirements.
- Publicizing the invitation for bids in newspapers of general circulation or other means as appropriate to insure distribution to prospective bidders in sufficient time to enable them to prepare and submit bids.
- Pre-bid conference (if applicable), called by the architect to include representatives of the Tribe in which any prospective contractor may attend (in some instances, attendance is mandatory in order for the contractor to submit a bid), review the details of the project, question and clarify any construction issues, and obtain a general understanding of the job.
- Conducting a public bid opening, including adequate documentation of the proceedings (i.e., certified bid tabulation by the architect, minutes of the opening).
- Preparing to award the contract after sealed bids are publicly opened to the responsible bidder whose bid contains the lowest price offer and conforms to the requirements of the invitation for bids and all prescribed documents, bonds, and assurances. After the lowest bidder is publicly announced (which does not constitute an award or an intended contract) the architect or the Tribe determines if the low bidder is not on the U.S. General Services Administration List of Parties Excluded from Federal Procurement or Non-Procurement Programs (Debarred List).
- The Construction Contract is signed (after a review of the bids, a recommendation from the architect and/or the program and approval by the Tribal Council or the authorized Tribal representative or entity to award the construction contract).
- Notice to Proceed can then be written and issued by the Tribe to the contractor indicating the day construction may commence.

The following documents constitute a complete contract or contract file:

- An original executed copy of the construction contract.
- A completed certified set of contract drawings and specifications with all addenda(s).
- 100 percent executed performance and payment bond(s) provided by an approved surety.
- Certificate(s) of Insurance.
- Notice to Proceed.

G. Liquidated Damage requirements:

The contract document must state the specified time for completion of the contract. Time will be specified in calendar days or by a definite calendar date. A specific dollar amount of daily damages may be included as a condition for assessments against the contractor for not completing the contract on time. The assessment must be specific for each calendar day that contract work exceeds the stipulated contract completion date without an accepted and signed (time extension) Change Order. The daily assessment

known as liquidated damages will be reasonable and adequate to cover appropriate fair damage costs to the Tribe and the program that result from delays in occupancy or other real and tangible costs, including additional rent or lease costs, fee and fines, and legal costs. A single source of responsibility such as the general contractor shall be held liable for the entire amount of liquidated damages to the Tribe.

When liquidated damages are to be specified, the following clause is recommended for inclusion in the construction contract:

> The Tribe or owner will suffer financial loss if the project is not substantially complete and ready for beneficial occupancy on the date stated in the contract documents. The contractor shall be liable for and shall apply to the Tribe or owner the sum hereinafter stipulated as fixed, agreed and liquidated damages for each calendar day of delay beyond those specified in the specifications until the work is substantially complete and ready for beneficial occupancy.

H. Bonds requirements:

The contractor should provide to the Tribe the following recommended minimum coverage for bid bonds and performance and payment bonds:

(1) A bid guarantee from each bidder equivalent to 5 percent of the bid price. The bid guarantee shall include a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying the bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified. The Tribe will keep the bid securities of at least the three lowest bidders until award of the construction contract is complete.

(2) A Performance and Payment Bond is provided to the Tribe by the contractor from a surety company guaranteeing the performance of the work in accordance with the contract documents. The bond is 100 percent of the contract sum and covers labor, materials, and performance.

I. Contractor's Liability Insurance:

Contractor's Liability Insurance is a requirement of the contractor to protect the Tribe from claims arising out of or as a result of the contractor's operations under the contract. Samples of claims include:

- Workmen's compensation, disability benefits, and other similar employee benefits.
- Bodily injury, occupational sickness or disease, or death of an employee on the job or any person other than an employee while on the job site.
- Damages insured by usual personal injury liability coverage sustained by any person because of an offense directly or indirectly related to the employment of such person by the contractor or by any other person.
- Injury to or destruction of tangible property, including loss of use.
- Adequate protection against special hazards.

Other recommended minimum insurance coverage for the Tribe by the contractor includes:

Contractors Comprehensive General Liability Insurance of $500,000 per occurrence. Property Damage

Liability Insurance of a specific dollar amount established by the Tribe. Automobile Liability Insurance of $200,000 per person and $500,000 per occurrence for bodily injury and $20,000 per occurrence for property damage.

Subcontractors insurance coverage requirements include Subcontractors Comprehensive General Liability, Automobile Liability, and Property Insurance of the type and in the same amount specified for the general contractor.

Certificate of Insurance is a document required by the Tribe from the contractor(s) before the start of work. These certificates must contain a provision that coverage afforded under the policies will not be canceled until at least 15 days or prior written notice has been given to the Tribe.

Owners Liability Insurance is a responsibility of the Tribe. The purchase and maintenance of liability insurance during construction protects the Tribe against claims that may arise from operations under the contract.

Property Insurance, unless otherwise provided, is a responsibility of the Tribe. The purchase and maintenance of property insurance covers the entire work at the site to the full insurable value. The insurance is protection against fire, extended coverage, vandalism, and malicious mischief and includes the interest of the Tribe, the contractor, and subcontractors involved in the work.

IV. Overseeing the Project

It is the responsibility of the Tribe to provide for construction inspections and supervision, adequate to assure the project is being constructed according to contract documents in order to allow for payment to the authorized contractor. In general, the architect/engineer or a project manager who designed the project will play a key role in supervising construction as they are the most familiar with the project and are legally responsible for the design. The separate fee for supervision is generally negotiated at the beginning of the project or may be part of the architectural contract. It is beneficial to hire an architect or project manager who is experienced in the design and construction of similar projects.

There are several software programs available (such as CPM, PERT, etc.), to allow for scheduling. However, unless the project is a large scale, it may not be necessary to use these programs. For smaller projects, bar charts will be sufficient to monitor the progress of the project on a monthly basis.

After contract award and execution, Notice to Proceed, and contractor mobilization and set up is complete, there will be construction meetings at least monthly and more often depending on the size of the project. A construction meeting is called by the architect requiring a representative of each subcontractor, the principle owner and on-site supervisor of the contractor, any suppliers, and Tribal and program representatives to attend. The meeting is designed to update all parties on work progress, delays, explanations, problems, and change orders, and to allow for general discussion on meeting all contract requirements.

All payment requests, Certificates for Payment, invoices, and contract billings will be received and processed by the architect or project manager. Certified Payroll reports are checked and approved, and any financial reports are received and processed. No payment to a contractor or subcontractor is made without approval from the architect or project manager and the Tribe or program.

The close-out is a process involving the architect or project manager, the contractor and all subcontractors, the Tribe, any licensing agencies, and any federal or state agency involved with code or operations. The architect or project manager coordinates on behalf of the Tribe any licensing requirements and represents

the Tribe to insure all licensing and code requirements are followed.

One set of complete contract documents including specifications will be provided to the Tribe after the project is accepted and during project closeout. Operations manuals, training of maintenance personnel of building equipment and subsystems (as necessary) and warranties should be part of a project closeout and acceptances as noted in the specifications. Outstanding construction items noted as punch list items will be listed on a Certificate of Substantial Completion form signed by the Tribe, architect, and contractor at the end of the job. This certificate allows the Tribe to safely and effectively utilize the structure. This phase of construction is known as beneficial occupancy.

The architect or project manager calls and conducts a final punch-list or walk-through to identify and determine any items needing work in order for the job to be accepted. Normally the final punch-list does not delay occupancy. Once the final punch-list has been satisfied, the licensing and code requirements have been met, and all financial obligations have been satisfied the contract is closed except for warranty.

The warranty period provided by the contractor and subcontractor is normally for one year. An extended warranty period may be provided by a manufacturer and may last up to 20 years for roofs and five years for parts and labor on equipment. Once the warranty period for a contractor and subcontractor is over, the architect or project manager notifies the Tribe to release the 10 percent retainage that had been withheld from the contractor's Certificate for Payment and held in escrow.

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Chapter 7: Glossary and Resources

Glossary

Listed below are terms, phrases, and definitions used by architects, engineers, contractors, and managers in the performance of a construction project. This listing may be used by non-construction professionals as a guide to understanding the terminology used for their project.

A | B | C | D | E | F | G | H | I | J | K | L | M | N | O | P | Q | R | S | T | U | V | W | X | Y | Z

A

Abate or abatement: To remove material.

Abstract of title: An outline history of the ownership of a parcel of land, from the original grant, with changes in title, and with a statement of all mortgages, liens, encumbrances, etc., affecting the property.

Acceptance test: A test conducted by a purchaser (or his or her agent) to determine if the material, devices, or equipment delivered conforms to the purchase contract specifications or the product supplied by the vendor.

Access: A means of approach, e.g., a road, street, or walk.

Accessible: Allowing physical contact, as by means of an easily removable cover or door, or a part of the building structure or finish materials. Providing access to a fixture, appliance, or piece of equipment; removal of a cover, panel, plate, or similar obstruction may be required.

Accident: A sudden, unexpected event identified as to time and place.

Acre: A unit of land measurement equal to 43,560 sq. ft. or 4046.85 sq. mile; 1 sq. mile equals 640 acres.

Activity: In CPM terminology, a task or item of work that must be performed in order to complete a project.

Activity duration: In CPM terminology, the amount of time estimated as required to accomplish an activity.

ADD: On drawings, abbreviation for addendum.

Addendum: A supplement to bidding documents, issued prior to the submission of bids, or the purpose of clarifying, correcting, or adding to the specifications previously issued.

Addition: A floor or floors, a room, wing, or other expansion to an existing building. Any new construction which increases the height or floor area of an existing building or adds to it (as a porch or attached garage). An amount added to the contract sum by a change order.

Additional services: The professional services which may, upon the owner's or tribe's request or approval, be rendered by the architect in addition to the basic services identified in the owner-architect agreement.

Additive alternate: An alternate bid resulting in an addition to the same bidder's base bid. Same as alternate bid.

Administration of the construction contract: Same as construction phase-administration of the construction contract.

Administrative authority: The individual, official, board, department, tribal council, or tribal leader established and authorized by a tribal council or by the people or political subdivision created by law to administer and enforce the provisions of the code.

Advertisement for bids: The published public notice soliciting bids for a construction project. Most frequently used to conform to legal requirements pertaining to projects to be constructed under public authority, and usually published in newspapers of general circulation in those districts from which the public funds are derived.

A/E: Abbreviation for architect-engineer.

Agency: A relationship by which one party, usually the agency, is empowered to enter into binding transactions affecting the legal rights of another party, usually called the principle, as, for example entering into a contract or buying or selling property in his name or on his behalf. An administrative branch of government. The Bureau of Indian Affairs, Agency Office, is the local or lowest level of federal government that acts and administers funds and programs on behalf of the tribe or principle.

Agent: One who is empowered to enter into binding transactions on behalf of another. The Tribal Chairperson, Chief, Governor, or President is the recognized and legal agent of his or her tribe.

Agreement: An arrangement indicating the intent of a contract but not necessarily fulfilling all the enforceable provisions of it. A meeting of minds. A legally enforceable promise or promises between two

or among several persons. On a construction project, the document stating the essential terms of the construction contract which incorporates by reference the other contract documents.

Agreement form: A document setting forth in printed form the general provisions of an agreement with spaces provided for insertion of specific data relating to a particular project.

AIA: Abbreviation for American Institute of Architects.

All-in contract: Same as turn-key job.

Alterations: Remodeling.

Alternate bid: The amount stated in the bid to be added to or deducted from the amount of the base bid if the corresponding change in project scope or alternate materials and/or methods of construction is accepted.

Application for payment: The contractor's written request for payment of amount due for completed portions of the work, may include, in the contract so provides, materials delivered and suitably stored pending their incorporation into the work.

Appraisal: An evaluation or estimate (preferably by a qualified professional appraiser) in some instances by the Bureau of Indian Affairs, Agency Office, of the market or other value, cost, utility, or other attribute of land or other facility.

Approved: Referring to materials, devices, or construction accepted by the authority having jurisdiction, by reason of tests or investigations conducted by it or by an agency satisfactory to the authority, or by reason of accepted principles or tests by national authorities or technical or scientific organizations.

Approved equal: Materials, equipment, or method approved by the architect for use in the work as being acceptable as an equivalent in essential attributes to the material, equipment, or method specified in the contract document.

Approving authority: The individual agency, board, department, tribe, or official established and authorized by a political subdivision which is created by law to administer and enforce specified requirements.

Arbitration: The binding resolution of disputes by one or more neutral persons, as a substitute for judicial proceedings; may be invoked only by agreement of the parities to the dispute, but such agreement may be arrived at before there is an actual dispute, for example, through a clause in a contract.

Architect: A person trained and experienced in the design of buildings and coordination and supervision of all aspects of the construction of buildings.

Architect-engineer: An individual or firm offering professional services as both architect and engineer; terms generally used in government contracts, particularly those with the federal government.

Architect's approval: The architect's written or imprinted acknowledgment that materials, equipment, or methods of construction are acceptable for use in the work.

Architect's scale: A scale having graduations along its edges so that scale drawings can be measured directly in feet.

Architectural: Pertaining to architecture, its features, characteristics, or details.

Architectural drawing: One of a number of drawings prepared by an architect for a construction project, e.g., plans, elevations, and details.

Architecture: The art and science of designing and building structures, or large groups of structures, in keeping with aesthetic and functional criteria.

Area method: A method of estimating probable total construction cost by multiplying the adjusted gross floor area by a predetermined cost per unit of area.

Article: A subdivision of a document.

Assessed valuation: The value of a property as determined by a recognized legal entity such as a tribe, for real estate tax purposes; often this valuation is less than the true market value of the property.

Assessment: A tax, charge, or levy on property.

Assessment ratio: Of a property, the ratio between its market value and its assessed value.

Assignment: The transfer of a legal right.

Attorney-in-fact: A person authorized to act for or in behalf of another person or organization, to the extent prescribed in a written instrument known as a power of attorney.

Authority: Same as administrative authority.

Authority having jurisdiction: A federal, state, local, or tribal entity having statutory authority. In many instances the tribe or Bureau of Indian Affairs or a delegated agent assumes the role of the authority having jurisdiction.

B

Base bid: The amount of money stated in the bid as the sum for which the bidder offers to perform the work, not including that work for which alternate bids are also submitted.

Base bid specifications: The specifications listing or describing only those material, equipment, and methods of construction upon which the base bid must be predicated, exclusive of any alternate bids.

Base services: The services performed by an architect during the following five phases of a project: schematic design; design development; construction documents; bidding or negotiation; and contract administration.

BIA: Abbreviation for Bureau of Indian Affairs

Bid: An offer to perform the work described in a contract at a specified cost. A complete and properly signed proposal to do the work. Competition for a job based on lowest cost to do the work. Bids are generally cost specific, based on the cost of labor, materials, profit, and over-head. Bids are normally not negotiated and can not be changed once accepted by the owner/tribe. Bids are time sensitive and are generally good for 30 to 60 days after the bid opening.

Bid bond: A form of id security executed by the bidder as principal and by a surety.

Bid date: The date established by the owner or tribe or the architect for the receipt of bids.

Bid documents: The advertisement or invitation to bid, instructions to bidders, the bid form, and the proposed contract documents including any addenda issued prior to receipt of bids.

Bid form: A form furnished to a bidder to be filled out, signed, and submitted as his bid.

Bid guarantee: Same as bid security.

Bid letting: Same as bid opening.

Bid opening: The opening and tabulation of bids submitted by the prescribed bid time and in conformity with the prescribed procedures.

Bid price: The sum stated in the bid for which the bidder offers to perform the work.

Bid security: The deposit of cash, certified check, cashier's check, bank draft, money order, or bid bond submitted with a bid and serving to guarantee to the owner or tribe that the bidder, if awarded the contract, will execute such contract in accordance with the bidding requirements and the contract documents.

Bid time: The date and hour established by the owner or tribe or the architect for the receipt of bids.

Bidder: One who submits a bid for a prime contract with the owner or tribe, as distinct from a sub-bidder who submits a bid to a prime bidder. A bidder is not a contractor on a specific project until a contract exists between him and the owner or tribe.

Bidding or negotiation phase: the fourth phase of the architect's basic service, during which competitive bids or negotiated proposals are sought as the basis for awarding a contract.

Bidding period: The calendar period beginning at the time of issuance of bidding requirements and contract documents and ending at the prescribed bid time.

Bidding requirements: those documents providing information and establishing procedures and conditions for the submission of bids. They consist of the notice to bidders or advertisement for bids, instructions to bidders, invitation to bid, and sample forms.

Bona fide bid: A bid submitted in good faith, complete and in prescribed form which meets the conditions of the bidding requirements and is properly signed by someone legally authorized to sign such bid.

Bond: A financial guarantee by a surety company that work will be completed as described in a contract.

Bonding capacity: An indication of a contractor's credit rating.

Bonus and penalty clause: A provision in a construction contract for payment of a bonus to the contractor for completing the work prior to a stipulated date, and a charge against the contractor for failure to complete the work by such stipulated date.

Boundary survey: A mathematically closed diagram of the completed peripheral boundary of a site,

reflecting dimensions, compass bearings and angles.

Builder's risk insurance: A specialized form of property insurance to cover work in the course of construction. Also property insurance.

Building area: The total area of the site which is covered by buildings as measured on a horizontal plane at ground level.

Building code: A collection of rules and regulations adopted by authorities having appropriate jurisdiction to control the design and construction of buildings, alteration, repair, quality of materials, use and occupancy, and related factors of buildings within their jurisdiction.

Building inspector: A member of a building department, usually of a municipality or tribe, who inspects construction to determine if it conforms to both the requirements of the building code and the approved plans.

Building permit: A written authorization to an applicant for a specific project allowing him to proceed with construction; granted by the authorized agency, a tribe or local municipality, having jurisdiction after plans have been filed, reviewed.

Building rehabilitation: The returning of a building to a useful state by repair, alteration, and modification.

Building restoration: The accurate reestablishment of the form and details of a building, its artifacts, and the site on which it is located, usually as it appeared at a particular time.

Building restriction: Any one of a number of restrictions, imposed on the construction of a building or the use of land. Also known as restrictive covenant.

Building services: The utilities and services supplied and distributed within a building generally related to the building environment.

Building site: Same as site.

Bureau of Indian Affairs: Branch of the U.S. Department of the Interior.

C

Cash allowance: An amount established in the contract documents for inclusion in the contract sum to cover the cost of prescribed items not specified in detail, with provision that variations between such amount and the finally determined cost of the prescribed items will be reflected in change orders appropriately adjusting the contract sum.

Certificate for payment: A statement from the architect to the owner or tribe confirming the amount of money due the contractor for work accomplished or materials and equipment suitable stored, or both.

Certificate of insurance: A memorandum issued by an authorized representative of an insurance company stating the types, amounts, and effective dates of insurance in force for a designated insured.

Certificate of occupancy: A document issued by governmental authority certifying that all or a designated portion of a building complies with the provisions of applicable statutes and regulations, and permitting

occupancy for its designated use.

Certification: A declaration in writing that a particular product or service complies with a specification or stated criterion.

Change order: A written order to the contractor signed by the owner or tribe and the architect issued after the execution of the contract, authorizing a change in the work or an adjustment in the contract sum or the contract time as originally defined by the contract documents; may add to subtract from, or vary the scope of work. A change order may be signed by the architect alone (provided he has written authority from the owner or tribe).

Changes in work: Changes ordered by the owner consisting of additions, deletions, or other revisions within the general scope of the contract, the contract sum and the contract time being adjusted accordingly.

Clerk of the works: Same as project representative.

Closed list of bidders: Same as invited bidders.

Closed specifications: Specifications stipulating ;the use of specific products or processes without provision for substitution. Same as base bid specifications.

Code: A legal instrument adopted within a political jurisdiction including a tribe or a reservation, that prescribes the minimum acceptable levels of the design, construction, installation, and performance of materials, components, devices, items of equipment, appliances used in a building, or building system and/or subsystem.

Code of practice: A technical document setting forth standards of good construction for various materials and trades.

Community: A tribe of people having common rights, privileges, or interests, or living in the same place under the same laws and regulations.

Compensation: Payment for services rendered or products or materials furnished or delivered.

Completed operations insurance: Liability insurance coverage for injuries to persons or damage to property occurring after an operation is completed but attributed to that operation; does not apply to damage to the completed work itself.

Completion bond, construction bond, contract bond: The guarantee of a bonding company that a contractor will perform and deliver the work contracted for free of all encumbrances and liens.

Completion date: In the contract documents, the date of substantial completion of the work.

Completion list: Same as inspection list.

Comprehensive general liability insurance: A broad form of liability insurance covering claims for bodily injury and property damage which combines under one policy coverage for all liability exposures on a blanket basis and automatically covers new and unknown hazards that may develop; automatically includes contractual liability coverage for certain types of contracts.

Comprehensive services: Professional services performed by the architect in addition to the basic services

in such related areas as project analysis, programming, land use studies, feasibility investigations, financing, construction management, and special consulting services.

Conditions of the bid: Conditions set forth in the instructions to bidders, the notice to bidders or advertisement for bids, the invitation to bidders, or other similar bid documents prescribing the conditions under which bids are to be prepared, executed, submitted, received, and accepted.

Conditions of the contract: those portions of the contract documents that define, set forth or relate to: contract terminology; the rights and responsibilities of the contracting parties an of others involved in the work; requirements for safety and for compliance with laws and regulations; general procedures for the orderly prosecution and management of the work; payments to the contractor; and similar provisions of a general, nontechnical nature.

Consent of surety: Written consent of the surety on a performance bond and/or labor and material payment bond to such contract charges as change orders or reductions in the contractor's retainage, or to final payment, or to waiving notification of contract changes.

Construction: All the on-site work done in building or altering structures, from land clearance through completion, including excavation, erection, and the assembly and installation of components and equipment.

Construction bond: A completion bond.

Construction budget: The sum established by the owner or tribe as available for construction of the project. The highest acceptable bid.

Construction cost: The cost of all the construction portions of a project, generally based upon the sum of the construction contracts and other direct construction costs; does not include the compensation paid to the architect and consultants, the cost of land, right-of-way, or other costs which are defined in the contract documents as being the responsibility of the owner or tribe.

Construction documents: The working drawings and specifications.

Construction documents phase: The third phase of the architect's basic services. In this phase the architect prepares from the approved design development documents, for approval by the owner or tribe, the working drawings and specifications and the necessary bidding information. In this phase the architect also assists the owner in the preparation of bidding forms, the conditions of the contract, and the form of agreement between the owner or tribe and the contractor.

Construction inspector: Same as project representative.

Construction loan: A loan to builder for a short term, financing construction prior to permanent financing.

Construction management: the special management services performed by the architect or others during the construction phase of the project, under separate or special agreement with the owner. This is not part of the architect's basic services, but is an additional service sometime included in the comprehensive services.

Construction phase - administration of the construction contract: The fifth and final phase of the architect's basic services, which includes the architect's general administration of the construction contracts.

Construction survey: Same as engineering survey.

Consultant: An individual or organization engaged by the owner or tribe or the architect to render professional consulting services complementing or supplementing the architect's services.

Contingency allowance: A sum designated to cover unpredictable or unforeseen items of work, or changes subsequently required by the owner or tribe.

Contingency agreement: Any agreement under which the rights or obligations of a arty are subject to the happening of stated contingency.

Contract: A legally enforceable promise or agreement between two or among several persons.

Contract administration: The duties and responsibilities of the architect or consultant during the construction phase.

Contract bond: Same as completion bond.

Contract date: Same as date of agreement.

Contract documents: Those documents that comprise a contract: owner-contractor agreement, conditions of the contract, plans and/or drawings, specifications, all addenda, modifications, and changes together with any other items stipulated as being specifically included.

Contracting officer: The person designated as the official representative of the federal and/or tribal government with specific authority to act on behalf of the government in connection with the project.

Contractor: One who undertakes responsibility for the performance of construction work, including the provision of labor and materials, in accordance with plans and specifications and under a contract specifying cost and schedule for completion of the work; the person or organization responsible for performing the work and identified as such in the owner-contractor agreement.

Contractor's affidavit: A certified statement of the contractor, properly notarized, relating to payment of debts and claims, release of liens, or similar matters requiring specific evidence for the protection of the owner or tribe. Same as non-collusion affidavit.

Contractor's estimate: A forecast of construction cost, as opposed to a firm proposal, prepared by the contractor for a project or a portion of a project.

Contractor's liability insurance: Insurance purchased and maintained by the contractor to protect him from specified claims which may arise out of or result from his operations under the contract, whether such operations be by himself or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.

Contractor's option: A provision of the contract documents under which the contractor may select certain specified materials, methods, or systems at his own option, without change in the contract sum.

Contractor's proposal: Same as bid.

Contract sum: the price stated in the owner-contractor agreement, which is the total amount payable by the owner or tribe to the contractor for the performance of the work in the contract document, can be adjusted

only by a signed change order.

Contract time: The period of time established in the contract documents pursuant to other agreement between the parties, or by operation of law, within which the work must be completed.

Contractual liability: Liability assumed by a party under a contract by express language, implication, or operation of law. A "hold harmless" clause.

Cost breakdown: Same as schedule of values.

Cost-plus-fee agreement: An agreement under which the contractor or the architect is reimbursed for his direct and indirect costs and in addition, is paid a fee for his services. The fee is usually stated as a stipulated sum or as a percentage of cost.

CPM: Abbreviation for critical path method.

Critical path method: CPM, a system of project planning, scheduling, and control that combines all relevant information into a single master plan, permitting the establishment of the optimum sequence and duration of operations; the interrelation of all the efforts required to complete a construction project are shown; and indication is given of the efforts that are critical to timely completion of the project.

D

Damages: Same as liquidated damages.

Date of agreement: The date stated on the face of the agreement. If no date is stated, it may be the date on which the agreement is actually signed, if this is recorded, or it may be the date established by the award; also referred to as the contract date.

Date of commencement of the work: The date established in a notice to proceed or, in the absence of which notice, the date of the agreement or such other date as may be established therein or by the parties thereto.

Date of substantial completion: The date certified by the architect when the work or a designated portion thereof is sufficiently complete, in accordance with the contract documents, so the owner or tribe may occupy the work or designated portion thereof for the use for which it is intended.

Debt service: The periodic payment of a loan, including both accrued interest and a portion of the principal.

Deduction: The amount deducted from the contract sum by a change order.

Deductive alternate: An alternate bid resulting in a deduction from the same bidder's base bid. Same as Alternate Bid.

Deed: Any duly attested, written document executed under seal and delivered to effect a transfer, bond, or contract, such as a conveyance of real property or interest therein.

Deed restriction: A limitation on the use of land, which is set forth in a deed conveying the restrictions.

Defective work: Work no complying with the contract requirements.

Demolition: The systematic destruction of a building, all or in part.

Department of Housing and Urban Development: A department of the U.S. government that strives for a decent, safe, and sanitary home and suitable living environment for every American.

Deposit for bidding documents: Monetary deposit required to obtain a set of construction documents and bidding requirements, customarily refunded to bona fide bidders on return of the documents in good conditions within a specified time.

Design: To compose a plan for a building. The architectural concept of a building as represented by plans, elevations, renderings, and other drawings.

Design development phase: The second phase of the architect's basic services. In this phase the architect prepares the design development documents consisting of drawings and other documents to fix and describe the size and character of the entire project as to structural, mechanical and electrical systems, materials and such other essentials as may be appropriate; the architect also submits to the owner or tribe a further statement of probable construction cost.

Design documents: Same as structural design documents.

Detailed estimate of construction costs: A forecast of construction cost prepared on the basis of a detailed analysis of materials and labor for all items of work, as contrasted with an estimate based on current area, volume, or similar unit costs.

Developed area: An area of land upon which improvements have been made.

Development: A tract of previously undeveloped land which is subdivided and provided with all necessary utilities, such as roads, water, electricity, sewers, etc.

Direct personnel expense: Salaries and wages of principals and employees engaged on a project, assignment, or task, including mandatory and customary benefits.

Document deposit: Same as deposit for bidding documents.

E

Educational occupancy: The use of a building or buildings for the gathering of groups of six or more persons for purposes of instruction.

Eminent domain: The power or right of the nation, tribe, or state to take private property for public use, usually with reasonable compensation to the owner.

Employer's liability insurance: Insurance protection for the employer against claims by employees for damages which arise out of injuries or diseases sustained in the course of their work and which are based on common law negligence rather than on liability under workmen's compensation acts.

Engineer: A person trained and experienced in the profession of engineering; a person licensed to practice the profession by the authority in the area.

Engineering survey: A survey conducted to obtain essential information for planning an engineering

project or developing and estimating its cost.

Environmental design professional: The professions collectively responsible for the design of man's physical environment.

Environmental impact statement: A detailed analysis of the probable environmental consequences of proposed federal legislation, major federal actions, or large-scale construction making use of federal funds, likely to have significant effects on environmental quality; such a statement is required by the National Environmental Policy Act of 1969.

Estimate: Same as detailed estimate of construction costs. Same as statement of probable construction costs. Same as contractor's estimate.

Extended coverage insurance: Same as property insurance.

Extra services: Same as additional services.

Extra work: Any work not included in the contract documents; an extra.

F

Facility: The building(s), playground(s), parking area(s), and campus where the program or construction site is located.

Fee-plus-expenses agreement: Same as cost-plus-fee agreement.

Field representative: Same as project representative.

Field supervision: That portion of the architect's supervisory work which is done at the construction site.

Final acceptance: The owner's or tribe's acceptance of a project from the contractor upon certification by the architect that it is complete and in accordance with the contract requirements; final acceptance is confirmed by the making of final payment unless otherwise stipulated at the time of making such payment.

Final completion: The completion of work and all contract requirements by the contractor.

Final inspection: The final review of the project by the architect prior to his issuance of the final certificate for payment.

Final payment: Payment made by the owner or tribe to the contractor, upon issuance by the architect of the final certificate for payment, of the entire unpaid balance of the contract sum as adjusted by change orders.

Fire and extended coverage insurance: Same as property damage insurance.

Fixed limit of construction cost: The maximum allowable cost of the construction work as established in the agreement between the owner or tribe and the architect. Same as construction budget.

Force account: A term used when work is ordered to be done without prior agreement as to lump sum or unit price cost thereof and is to be billed for at cost of labor, materials and equipment, insurance, taxes, etc., plus an agreed percentage for overhead and profit.

G

General conditions: That part of the contract documents that sets forth many of the rights, responsibilities, and relationships of the parties involved. Same as conditions of the contract.

General contract: Under the single contract system, the contract between the owner or tribe and the contractor for construction of the entire work.

General contractor: The prime contractor who is responsible for most of the work at the construction site, including that performed by the subcontractors.

Generally accepted standard: A specification, code, rule, guide, or procedure in the field of construction, or related thereto, recognized and accepted as authoritative.

General requirements: The title of division 1 of the AIA's uniform system for construction specifications, data filing, and cost accounting.

Guarantee: A legally enforceable assurance of the quality or duration of a product or of work performed.

Guaranteed maximum cost: An amount estimated in an agreement between the owner or tribe and contractor as the maximum cost of performing specified work on the basis of cost of labor and materials plus overhead expense and profit.

Guaranty bond: Same as bid bond. Same as labor and material payment bond. Same as performance bond. Same as surety bond.

H

HUD: The abbreviation for U.S. Department of Housing and Urban Development.

I

IHS: Abbreviation for Indian Health Services.

Indian Health Services: A branch of the Public Health Services

Inspection list: A list of items of work to be completed or corrected by the contractor during or after completion of the work and during the warranty period.

Instructions to bidders: Instructions contained in the bidding requirements for preparing and submitting bids for a construction project. Same as notice to bidders.

Invitation to bid: A solicitation of competitive bids. The term usually is employed in connection with private construction projects, but also may be used for government projects, for the purchase of supplies or other goods, or in connection with the sale of property. Same as advertisement for bids.

Invited bidders: The bidders selected by the architect and the owner or tribe as the only ones from whom bids will be received.

J

Job: Same as project. Same as work.

Job captain: A member of the architect's staff normally responsible, on a given project, for the preparation of drawings and their coordination with other documents.

Job site: The site of the construction project.

Job superintendent: Same as superintendent.

L

Labor and material payment bond: A bond of the contractor in which a surety guarantees to the owner or tribe that the contractor will pay for labor and materials used in the performance of the contract. The claimants under the bond are those having direct contracts with the contractor or any subcontractor.

Landscape architect: A person trained and experienced in the design and development of landscapes and gardens.

Land survey: A survey of landed property establishing or reestablishing lengths and directions of boundary lines. Land boundaries are usually defined by ownership, commencing with the earliest owners through successive ownerships and partitions.

Latest event occurrence time: In CPM, the latest point in time by which no further work must be done on an activity if the project is not to be delayed.

Latest start date: In CPM, the latest possible point in time by which an activity must be started if the project is not to be delayed.

Letter of intent: A letter signifying an intention to enter into a formal agreement, usually setting forth the general terms of such agreement.

Liability insurance: Insurance that protects the insured against liability on account of injury to the person or property of another.

Licensed architect: Same as architect.

Licensed contractor: A person or organization certified by governmental authority, where required by law, to engage in construction contracting.

Licensed engineer: Same as professional engineer.

Lien: A right enforceable against specific property to secure payment of an obligation.

Lien waiver: Same as waiver of lien.

Life cycle cost: The cost of a building or equipment based not only on the initial expenditure, but also on its maintenance and operating cost over its entire lifetime.

Liquidated damages: A sum specified in a contract whereby damages in the event of breach are to be determined. In a construction contract liquidated damages usually are specified as a fixed sum per day for failure to complete the work within a specified time.

Listed: Equipment, materials, or products included in a list published by an organization acceptable to the authority having jurisdiction.

Loss of use insurance: Insurance protecting against financial loss during the time required to repair or replace property damaged or destroyed by an insured peril.

Lowest responsible bidder, lowest qualified bidder: The bidder who submits the lowest bona fide bid and is considered to be fully responsible and qualified to perform the work for which the bid is submitted.

Lowest responsive bid: The lowest bid which is responsive to and complies with the bidding requirements.

Lump sum agreement: Same as stipulated sum agreement.

M

Main contractor: Same as general contractor.

Maintenance bond: A bond that provides a guarantee to an owner or tribe that the contractor will rectify defects in workmanship or materials reported to the contractor within a specified time period following final acceptance of the work under contract.

Measured drawing: An architectural drawing of an existing structure, drawn to scale.

Mechanic's lien: A lien on privately owned real property created by state statute in favor of persons supplying labor or materials for a building or structure or improvements thereof, generally for the value of the labor or materials supplied by them.

Model code: A proposed building code that is written and published by building official associations available for adoption by states, tribes, counties and municipalities.

Modification: A written amendment to the contract document signed by both parties. A change order. A written order for a minor change in the work issued by the architect.

Modular construction: Construction in which a selected unit or module, such as a box or other sub-component , is used repeatedly in the aggregate construction.

Mortgage: A loan in which property is used as security for the debt.

Mortgagee: The lender from whom a mortgage is obtained.

Mortgage lien: A charge against property as security for the payment of a loan.

Mortgagor: The borrower who obtains a mortgage.

N

Negligence: Failure to exercise that degree of care which a reasonable and prudent person would exercise under the same circumstances.

Negotiation phase: Same as bidding or negotiation phase.

Non-collusion affidavit: A notarized statement by a bidder that he has prepared his bid without collusion of any kind.

Nonconforming work: Work that does not fulfill the requirement of the contract documents.

Notice to bidders: A notice contained in the bidding requirements informing prospective bidders of the opportunity to submit bids on a project and setting forth the procedures for doing so.

Notice to proceed: Written communication issued by the owner or tribe to the contractor authorizing him to proceed with the work and establishing the date of commencement of the work.

O

Observation of the work: A function of the architect in the construction phase, during his periodic visits to the site, to familiarize himself generally with the progress and quality of the work an to determine in general if the work is proceeding in accordance with the contract documents.

Occupancy permit: Same as certificate of occupancy.

Opening of bids: Same as bid opening.

Ordinance: A law or rule adopted by a local or tribal governmental authority.

Orientation: The placement of a structure on a site with regard to local conditions of sunlight, wind, and drainage.

OSHA: The abbreviation for "Occupational Safety and Health Administration," Department of Labor.

Over design: As applied to structural design, a design based on requirements higher than service demands, usually as a means of compensating for unknown and/or anticipated deficiencies.

Owner: Tribe or Tribal government, the architect's client and party to the owner-architect agreement.

Owner-architect agreement: A contract between the architect and the client or tribe for professional services.

Owner-contractor agreement: A contract between the owner or tribe and contractor for a construction project.

Owner's inspector: A person employed by the owner or tribe to inspect construction in the owner's behalf.

Owner's liability insurance: Insurance which protects the owner or tribe against claims arising from his ownership of property and which may be extended to cover claims which may arise from operations of others under the construction contract.

P

Package dealer: A person or organization assuming responsibility under a single contract for the design and construction of a project to meet the specific requirements of another.

Parcel: Of land, a contiguous land area which is considered as a unit, which is subject to a single ownership, and which is legally recorded as a single piece.

Partial occupancy: Occupancy by the owner or tribe of a portion of a project prior to final completion.

Partial payment: A progress payment.

Payment request: Same as application for payment.

P.E.: Abbreviation for professional engineer.

Penal sum: The amount named in a contract or bond as the damages or penalty to be paid by a signatory thereto in the event he failed to perform his contractual obligations or does not do so within the time prescribed by the contract.

Penalty-and-bonus clause: Same as bonus-and penalty clause.

Penalty clause: A contract provision setting forth the damages a party must pay in the event of his breach. If such a clause is regarded by the court as too harsh to be regarded as a fair estimate of probable damaged, it will normally be held invalid. Same as liquidated damages.

Percentage agreement: An agreement for professional services in which the compensation is based upon a percentage of the construction cost.

Percentage fee: Compensation based upon a percentage of construction cost. Same as fee.

Performance bond: A bond of the contractor in which a surety guarantees to the owner or tribe that the work will be performed in accordance with the contract documents; frequently combined with the labor and materials payment bond, except where prohibited by stature.

Permit: A document issued by a governmental authority having jurisdiction to authorize specific work by the applicant.

Personal injury: In insurance terminology, injury or damage to the character or reputation of a person, as well as bodily injury. Person injury insurance usually covers such situations. Same as bodily injury.

Personal property: Movable and other property not classified as real property.

PERT: Acronym for "project evaluation and review technique."

PERT schedule: A PERT chart of the activities and events anticipated in a work process. Same as critical path method, CPM.

PHS: Abbreviation for Public Health Service.

Planning: the process of studying the layout of spaces within buildings and of buildings and other facilities or installations in open spaces in order to develop the general scheme of a building or group of buildings.

Post-completion services: Additional services rendered after issuance of the final certificate for payment, such as consultation regarding maintenance, processes, systems, etc.

Power of attorney: An instrument authorizing another to act as one's agent. Same as attorney-in-fact.

Preliminary drawings: Drawings prepared during the early stages of the design of a project.

Preliminary estimate: Same as statement of probable construction costs.

Premises: Land and/or it appurtenances.

Pre-bid Conference or Pre-bid walk-through: A meeting of any interested bidder, at the job site, giving an opportunity to review the project, and discuss any unclear design or programming issues.

Pre-qualification of prospective bidders: The process of investigating the qualifications of prospective bidders on the basis of their competence, integrity, and responsibility relative to the contemplated project.

Prime contract: A contract between the owner or tribe and contractor for constriction of a project or portion thereof.

Prime contractor: The contractor on a project having a contract directly with the owner.

Prime professional: Any person or firm having a contract directly with the owner for professional services.

Principle: One on whose behalf or in whose name binding transactions may be entered into by another; usually called the agent.

Production drawings: Same as working drawings.

Professional adviser: An architect engaged by the owner or tribe to direct an authorized design competition for the selection of an architect.

Professional engineer: A designation reserved, usually by law, for a person or organization professionally qualified and duly licensed to perform such engineering services as structural, mechanical, electrical, sanitary, civil, etc.

Professional liability insurance: Insurance designed to insure an architect or engineer against claims for damages resulting from alleged professional negligence. Also known as errors and omissions insurance.

Professionals practice: The practice of one of the environmental design professionals in which services are rendered within the framework of recognized professional ethics and standards.

Program: A statement prepared by or for an owner or tribe, with or without an architect's assistance, setting forth the conditions and objectives for a building project including its general purpose and detailed requirements, such as a complete list of the rooms required, their sizes, special facilities, etc.

Program evaluation and review technique (PERT): A management control technique applied to building construction; determines what must be done to complete construction by a given date.

Progress chart: A chart prepared by a contractor, brought up to date monthly; the principal trades of the project are tabulated vertically and the scheduled construction time shown horizontally.

Progress payment: A partial payment made during progress of the work on account of work completed

and/or materials suitably stored.

Progress schedule: A diagram, graph, or other pictorial or written schedule showing proposed and actual times of starting and completion of the various elements of the work.

Project: A construction undertaking, composed of one or more buildings and the site improvements, planned and executed in a fixed time period.

Project budget: The sum established by the owner or tribe as available for the entire project, including the construction budget, land costs, equipment costs, financing costs, compensation of professional services, contingency costs, and other similar established or estimated costs.

Project cost: The total cost of a project including the professional compensation, land costs, furnishings and equipment, financing, and other changes as well as the construction cost.

Project Manager: A third party consultant or employee of the owner/tribe that works for the owner and coordinates the activities of the project. Assists with the development of specific strategies of the project (including bidding and contracting), establishing time frames and benchmarks for the project, assisting the owner in hiring other professional services; reviews plans and drawings and makes recommendations to the owners, monitors the budget of all phases of the project, works with all consultants, monitors the day-to-day work progress of the contractor, assists the owner in close-out, and prepares for occupancy.

Project manual: The manual prepared by the architect for a project, including the bidding requirements, conditions of the contract, and the technical specifications.

Project representative: The architect's representative at the project site who assists in the administration of the construction contract.

Property: Any asset, real or personal.

Property damage insurance: Part of general liability insurance covering injury to or destruction of tangible property, including loss of use resulting from, but usually not including property that is in the area, custody and control of the insured.

Property line: A recorded boundary of a plot.

Property survey: Same as boundary survey.

Proposal: In construction terminology, could be the same as bid. (Request For Proposals): A document used by the owner/tribe to evaluate the professional capabilities of a business, agency, or individual against a set of pre-established criteria that may be weighted on a numerical scale using a set of questions that allows the owner/tribe to determine the best business, agency, or individual to hire for their specific job. Normally, the proposal does not include the cost of services; cost is generally a negotiated amount after the competing proposals have been evaluated and ranked. The proposal, however, is designed to evaluate such criteria as previous work experience, work with tribes or tribal organizations, and, specifically, your tribe; preference can be given to local or in-state business; the qualifications of the lead professional and the qualifications of the team that will be working on the project; and if their previous work has been completed on time and within budget.

Proposal form: Same as bid form.

Public liability insurance: Insurance covering liability of the insured for negligent acts resulting in bodily injury, disease, or death of others than employees of the insured, and/or property damage.

Q

Quality assurance: The inspection, testing, and other relevant action taken to ensure that the desired level of quality is in accordance with the applicable standards or specifications for the product or work.

Quality control: The inspection, analysis, and other relevant action taken to provide control over what is being done, manufactured, or fabricated, so that a desirable level of quality is achieved and maintained.

Quality survey: A detailed analysis and listing of all items of materials and equipment necessary to construct a project.

Quitclaim deed: A written instrument whereby the seller conveys only whatever interest he has in property, but makes no warranties or representations as to the nature of that interest or as to the absence of any limitations or restrictions thereon, or even that he has any right to the property at all.

Quotation: A price quoted by a contractor, sub-contractor, material supplier, or vendor to furnish materials, labor, or both.

R

Real estate: Property in the form of land and all its appurtenances, such as buildings.

Real property: Land, everything growing on it, and all improvements made to it.

Realty Officer: A tribal and/or BIA employee who assists the governments in realty issues including, but not limited to, disputes, developments, and assignments.

Record drawings: Construction drawings revised to show significant changes made during the construction process, usually based on marked-up prints, drawings and other data furnished by the contractor to the architect.

Record sheet: On a construction job, a sheet or printed form for keeping a record, usually of materials delivered, number of men working at the various trades, hours worked, etc.

Regulation: Any rule prescribing permitted or forbidden conduct, whether found in legislation or in the actions of an administrative agency such as the tribe or the BIA or some other federal agency.

Release of lien: Instrument executed by one supplying labor, materials, or professional services on a project which releases his mechanic's lien against the project property. Same as mechanic's lien.

Render: To give a mechanical drawing, as in elevation, a more or less complete indication of shades and shadows.

Reservation: Land designated as being "in trust" to the federal government on behalf of the individual tribe or tribal government.

Resident engineer: A person representing the owner's or tribe's interests at the project site during the construction phase; term frequently used on projects in which a governmental agency is involved such as a

tribe.

Resident inspector: Same as owner's inspector.

Responsible bidder: Same as lowest responsible bidder.

Restricted list of bidders: Same as invited bidders.

Restriction: On land, an encumbrance limiting its use.

Restrictive covenant: An agreement between two or more individuals, incorporated within a deed that stipulates how land may be used.

Retainage: A sum withheld from progress payments to the contractor in accordance with the terms of the owner-contractor agreement.

Retention: The withholding of a portion (usually 10 percent) of a periodic payment to a contractor, by prior agreement, for work completed. The retention is held in escrow for a stipulated time period after the acceptance of the completed work by the architect and owner or tribe.

Retention money: Same as retention.

Right-of-way: Any strip of land, including surface and overhead or underground space, which is granted by deed or easement for the construction and maintenance of specified linear elements such as power and telephone lines.

S

Satisfaction: Cancellation of an encumbrance on real property, usually by payment of the debt secured by it.

Schedule: A detailed tabulation of components, items, or parts to be furnished.

Schedules of values: A statement furnished by the contractor to the architect reflecting the portions of the contract sum allotted for the various parts of the work and use as the basis for reviewing the contractor's application for progress payment.

Schematic design phase: The first phase of the architect's basic services. In this phase, the architect consults with the owner or tribe to ascertain the requirements of the project and prepares schematic design studies consisting of drawings and other documents illustrating the scale and relationship of the project components for approval by the owner or tribe. The architect also submits to the owner or tribe a statement of probable construction costs.

Schematic drawing: Same as schematic design phase.

Scheme: The basic arrangement for an architectural composition. Primary sketch for a design.

Selected bidder: The bidder selected by the owner or tribe for discussion relative to the possible award of the construction contract.

Selected list of bidders: Same as invited bidders.

Setback: The minimum distance between a reference line and a building, or portion thereof.

Shop drawings: Drawings, diagrams, illustrations, schedules, performances charts, brochures, and other data prepared by the contractor or any subcontractor, manufacturer, supplier, or distributor, which illustrates how specific portions of the work shall be fabricated and/or installed.

Single contract: A contract for construction of a project under which a single prime contractor is responsible for all the work.

Site: An area or plot of ground with defined limits on which a building or project is located or proposed to be located.

Site investigation: An examination of the subsoil and surface of a site to obtain complete information necessary for the design of foundations and structures on them.

Site plan: A plan of a construction site showing the position and dimensions of the building to be erected and the dimensions and contour of the lot.

Special conditions: A section of the conditions of the contract, other than general conditions and supplemental conditions, which may be prepared for a particular project. Same as conditions of the contract.

Special hazards insurance: Additional perils insurance to be included in property insurance.

Specifications: 1. A written document describing in detail the scope of work, materials to be used, method of installation, and quality of workmanship for a parcel of work to be place under contract; usually utilized in conjunction with working drawings in building construction. 2. A part of the contract documents contained in the project manual consisting of written descriptions of a technical nature of materials, equipment construction systems, standards, and workmanship.

Standard: A document prepared by a recognized standard-setting organization that prescribes methods and materials for the safe use and consistent performance of specific technologies.

Standards of professional practice: Statements of ethical principles promulgated by professionals societies to guide their members in the conduct of professionals practice.

Statement of probable construction cost: Cost forecasts prepared by the architect during the schematic design, design development, and construction documents phases of basic services for the guidance of the owner or tribe.

Statute of limitations: A statute specifying the period of time within which legal action must be brought for alleged damage or injury. The lengths of the periods vary from state to state and depends upon the type of legal action.

Statutory bond: A bond, the form and contents of which is prescribed by statute.

Stipulated sum agreement: A contract in which a specific amount is set forth as the total payment for performance of the contract.

Structural design documents: The plans, design details, and job specifications prepared by the structural

designer.

Structural drawings: Drawings, usually prepared by a structural engineer, of the design and working drawings of a building's structure.

Structural engineering: That branch of engineering concerned with the design and construction of structures to withstand physical forces.

Sub-bidder: One who tenders to a bidder on a prime contract a proposal to provide materials and/or labor.

Subcontract: 1. An agreement between a prime or general contractor and a subcontractor for the execution of a portion of the contractual obligation of the prime contract to the owner or tribe. 2. A person or organization who has a direct contract with a prime contractor to perform a portion of the work at the site.

Subcontractor bond: A performance bond given by a subcontractor that guarantees performance of a contract and the payment of bills for labor and materials.

Substantial completion: Same as date of substantial completion.

Substitution: A materials or process offered in lieu of, and as being equivalent to, a specified material or process.

Successful bidder: Same as selected bidder.

Superintendent: At a construction site, the contractor's representative who is responsible for continuous field supervision, coordination, and completion of the work and, unless another person is designated in writing by the contractor to the owner and the architect, for the provision of accidents. With the BIA, the federal official in charge of the agency office.

Supervision: the observation and inspection of construction work in order to ensure conformity with the contract documents, direction of work by the contractor's personnel.

Supplemental conditions: Same as supplementary conditions.

Supplementary conditions: A part of the contract documents that supplements and may also modify provisions of the general conditions.

Surety: A person or organization who, for a consideration, promises in writing to make good the debt or default of another.

Surety bond: A legal instrument under which one party agrees to answer to another party for the debt, default, or failure to perform of a third party.

Survey: A boundary and/or topographic mapping of a site.

T

Tender: A proposal or bid for a contract to perform work, often on a form, completed by a contractor, giving estimated price and time to complete a contract.

Terminal expense: An expense incurred in connection with the termination of a contract.

Time: Time limits or period stated in the contract.

Timely completion: Completion of the work or designated portion thereof on or before the date required.

Time of completion: The date established in the contract, by name or by number of days, for substantial completion of the work.

Title insurance: Insurance, offered by a company, that the title to property is clear or that it may be cleared by curing specified defects.

Title search: An inquiry into the historical ownership record of a property.

Topographical survey: The configuration of a surface including its relief and the locations of its natural and man-made features.

Trade: A person's occupation or craft, usually involving manual skill.

Tribal government: The government of the tribe, using a written or unwritten constitution or set of principles for governance.

Turn-key job: A job in which the contractor completes all work and furnishing of a building so that it is ready for immediate use.

V

Variation order: Same as change order.

Visual inspection: Inspection by examination without the use of testing apparatus.

W

Waiver of lien: An instrument by which a person, organization or tribe who has or may have a right of mechanic's lien against the property of another relinquishes such right. Same as mechanic's lien and release of lien.

Work: All labor necessary to produce the construction required by the contract document.

Working drawings: Drawings, intended for use by a contractor, subcontractor, or fabricator, which form part of the contract documents for a building project.

Workmen's compensation insurance: Insurance covering liability of an employee to his employees for compensation and other benefits required by workmen's compensation laws.

Z

Zoning: The control by a tribe or municipality of the use of land and buildings, the height and bulk of the buildings, the density of population, the relation of a lots building coverage to open space, size and location of yards and setbacks, and the provision of any ancillary facilities.

Zoning permit: A permit issued by appropriate governmental authority authorizing land to be used for a

specific purpose.

RESOURCES

Center for American Indian Economic Development (CAIED)
College of Business Administration
P.O. Box 15066
Flagstaff, AZ 86011
520/523-7320
World Wide Web: http://www.cba.nau.edu/caied/Back.HTM

Located on the campus of Northern Arizona University, CAIED is an information and resource center for Arizona's 21 tribal nation communities. CAIED stimulates and nurtures entrepreneurship at both the tribal and individual level, by providing services that include technical assistance, business consulting, training and educational workshop. The center also provides a resource library with current information on Arizona tribes, Indian Economic development, and general development issues on Indian Country.

Center for Policy Alternatives (CPA)
Child Care Facility Financing
1875 Connecticut Avenue NW, Suite 710
Washington, DC 20009
202/387-6030
World Wide Web: http://www.cfpa.org/issues/workfamily/childcare/index.cfm

CPA provides online resources on child care facility financing. It provides up-to-date information on financing initiatives around the country. The information is derived from a variety of sources, including child care facilities financing organizations, public policy organizations, banks and other lending institutions, community development organizations, and state policy makers.

Head Start Facility Referral and Information System (FRIS)
Western Kentucky University
1 Big Red Way
Bowling Green, KY 42101
800/303-0705
World Wide Web: http://c11wdc-0100n.acf.dhhs.gov:2000/html/fris.html

FRIS provides referrals to resources on how to create and maintain high-quality facilities for children and their families. FRIS also provides services related to accessibility, associations, contracts, construction/building, design/space planning, local zoning/ordinances, playgrounds, safety, and other facility issues.
The publication *Understanding Contracts* is available online at http://c11wdc-0100n.acf.dhhs.gov:2000/html/understanding___negotiating_contracts.htm.

First Nations Development Institute
The Stores Building

11917 Main Street
Fredericksburg, VA 22408
540/371-5615
540/371-3505 (Fax)
World Wide Web: http://www.firstnations.org/

First Nations focuses specifically on supporting projects and efforts of tribal communities. The institute publishes two newsletters featuring information on financing and funding strategies: *Business Alert* is a bi-monthly publication focusing on information on economic and financial activities affecting Indian tribes and individuals; *Indian Giver: News on Native American Grantmaking* is a quarterly publication highlighting funding opportunities targeted specifically to support projects in native communities.

First Nations administers the Eagle Staff Fund: A Collaborative for Native American Development. This fund dedicates resources and support to Native grassroots and tribal organizations to launch their own development strategies. Eagle Staff Fund Grants include Seed Grants, Start-Up Grants, and Working Capital Grants. Information on these grants is included in the enclosed brochure.

First Nations has also created a research and policy center, the Native Assets Research Center (NARC), which is dedicated to promoting indigenous knowledge and helping tribal communities build sound, sustainable reservation economies. NARC has compiled a list of native affiliated financial institutions and advisors in the U.S and Canada. This list and other information about NARC activities are available on the First Nations Web site.

Local Initiatives Support Corporation (LISC)
World Wide Web: http://www.liscnet.org

LISC is a financial intermediary that channels grants, loans and equity investments to community development corporations (CDCs) for community or neighborhood redevelopment. LISC operates in 41 areas involving hundreds of CDCs.

Minority Business Development Agency (MBDA)
World Wide Web: http://www.mbda.gov

MBDA was established by the U.S. Department of Commerce to foster the creation, growth and expansion of minority-owned businesses in America. MBDA also has regional Native American Business Development Centers located in several cities.

Office of Minority Enterprise Development (MED)
Small Business Administration
202/205-6412
World Wide Web: http://www.sba.gov/med

MED provides business development assistance to socially and economically disadvantaged business persons to ensure opportunities to participate more fully and successfully in the mainstream national economy.

Office of Women's Business Ownership
Small Business Administration
202/205-6673
World Wide Web: http://www.sba.gov/womeninbusiness

The Office of Women's Business Ownership helps women start and build businesses by helping them put together successful loan packages or break into the federal procurement and export markets. The office has loan guaranty programs to help those who cannot get lending through conventional channels finance their businesses. The office also offers training, advice, and counseling via the Internet.

Rural Information Center (RIC)
National Agricultural Library
10301 Baltimore Avenue, Room 304
Beltsville, MD 20705-2351
800/633-7701
World Wide Web: http://www.rurdev.usda.gov

RIC is another potential source of funding and financing information for native communities in rural locations. The RIC is a service jointly provided by the Office of Rural Health Policy of the U.S. Department of Health and Human Services (DHHS) and the National Agricultural Library of the U.S. Department of Agriculture (USDA). RIC provides information and referral on rural development issues, including publications such as *Federal Funding Sources for Rural Areas*. Additional information about the Community Facilities Loan Program is available on the Web site at: http://www.rurdev.usda.gov/agency/rhs/cf/cf.htm. For information on rural business programs, call 202/720-0813. For further information on rural facilities support, call 202/720-1490.

Rural Community Assistance Corporation (RCAC) Headquarters
2125 19th Street, Suite 203
Sacramento, CA 95818
916/447-2854
World Wide Web: http://www.rcac.org

The RCAC may also have appropriate options for you to investigate. According to RCAC's July 1997 newsletter, *Pacific Mountain Network News*, the RCAC will lend to nonprofit child care providers for facility development, purchase or renovation.

Tribes in Arizona are served by the RCAC Office in Tucson:

1955 West Grant, Suite 125W
Tucson, AZ 85706
520/770-9886
520/770-9887 (Fax)

Society of Research Administrators (SRA)
1200 19th Street, NW, Suite 300
Washington, DC 20036-24122
202/857-1141
World Wide Web: http://sra.rams.com/cws/sra/sra.htm

SRA is an organization that represents research administrators and provides information on grants to its membership. The public may download general information from SRA's GrantsWeb that includes federal grant funding resources, federal agencies, federal regulations, electronic publications and federal grant forms.

Appendix A:
Sample Notice of Federal Interest

Upon completion of construction or major renovation with CCDF funds of a facility, the grantee must record a Notice of Federal Interest in the appropriate official records for the jurisdiction in which the facility is located. Below is a sample:

Notice of Federal Interest

This is to serve as notice to all potential sellers, purchasers, transferrers and grantees of a transfer of the real property described below as to the Federal Government's reversionary interests as set forth in 45 CFR Part 92, which have arisen as a result of [GRANTEE'S NAME] receipt and use of Department of Health and Human Services's grant funds in connection with said property. These grant funds were awarded on [DATE] in accordance with the Child Care and Development Block Grant Act. The property to which this notice is applicable is [ADDRESS] and identified as Parcel [INSERT APPROPRIATE NUMBER(S)] in the books and records of [INSERT APPROPRIATE NAME OF RECORDING AGENCY.] Said real property is also described as: [INSERT LEGAL DESCRIPTION.]

In accordance with 45 CFR 92.31, this property may not be mortgaged, used as collateral, sold, leased, or otherwise transferred, or its title encumbered, without the prior written permission of the Administration for Children and Families, Department of Health and Human Services. There is a prohibition against the use of this property during its useful life for other than the purpose for which the property was financed for or for any purpose inconsistent with that authorized by the Child Care and Development Block Grant Act and applicable regulations. These grant conditions and requirements cannot be altered or nullified through a transfer of ownership. Further information as to the Federal Government's interests referred to above can be obtained from the Administration for Children and Families, 370 L'Enfant Promenade, S.W., Washington, D.C. 20024.

This Notice of Federal Interest was completed by [NAME, TITLE, SIGNATURE] on [DATE].

Appendix B:
Construction and Renovation Documents and Deadlines

(to be submitted to the ACF Regional Office)

Document	Deadline
Application	Any time (although to use CCDF funds awarded in a given fiscal year, a Tribe must submit an application prior to July 1 of that fiscal year)
Notice of Federal Interest	Submitted within 10 working days of the completion of construction or renovation
Title insurance policy	Submitted within 5 working days of the completion of construction or renovation
Physical destruction insurance policy	Submitted within 5 working days of the completion of construction or renovation
Certification by a licensed engineer or architect as to the cost and technical appropriateness of the construction or renovation, if the project exceeds $100,000	After receiving ACF approval and prior to the start of actual construction or renovation
Certified copies of the deed, loan instrument, mortgage, and any other legal documents	Within 10 working days of execution
Final inspection report that demonstrates the structural soundness of the facility (unless modular unit)	Within 30 calendar days of the inspection; the inspection must occur upon completion of the construction or renovation
FOR MODULAR UNITS: Engineer's or architect's inspection report	Within 30 calendar days of the inspection; the inspection must occur within 15 calendar days after the completion of the construction or renovation

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Appendix I: Application of Title III (Public Accommodations) of the Americans with Disabilities Act (ADA) to the Tribes

In a long awaited decision, the 11th Circuit Court of Appeals ruled on February 3, 1999, in Florida Paraplegic Association, Inc. v. Miccosukee Tribe of Indians of Florida, that while Title III of the Americans with Disabilities Act (ADA), (the part that applies to public accommodations) does apply to the tribes, tribal sovereign immunity prevents the filing of individual lawsuits against tribes. However, the court also ruled that the Attorney General for the United States can pursue an action against tribes failing to comply with the ADA. This lawsuit was filed by the Florida Paraplegic Association and the Association for Disabled Americans. They alleged that the Miccosukee Indian Tribe's restaurant and entertainment facility was in violation of Title III of the ADA because the handicapped parking was inadequate, the bathrooms were not properly equipped, the ramps were too steep, etc. The tribe argued it was immune from such a lawsuit. The appeals court first found that the ADA did apply to the tribes: they decided that the ADA is a general law and as such it is presumed to govern the tribes unless certain conditions are met which were not met here. However, it also found that the tribes were immune from private suit, because tribal sovereign immunity is never to be abrogated unless it is eliminated in unmistakably clear and explicit language which was not done in the drafting of the ADA. Nonetheless, according to this court decision, tribes must still

comply with Title III of the Americans with Disabilities Act (ADA). This is because the ADA allows the United States Attorney General (AG) to bring suit against "any person or group of persons . . . engaged in a pattern or practice of discrimination" and tribal sovereign immunity does not bar suits by the United States. Cases brought by the Attorney General are for pattern or practice discrimination or cases of general public importance; the Attorney General does not file lawsuits in every case in which a private litigant could file a lawsuit. Also, by contrast with private lawsuits which include no monetary damages, lawsuits by the AG can result in fines (up to $50,000 for the first violation and up to $100,000 for subsequent violations), as well as compensatory damages for the individual if requested by the Department of Justice. Punitive damages are not available. In determining the amount of damages courts may take into consideration good faith efforts at compliance. This was a case of first impression, meaning it was the first court decision to address the issue. The ruling is binding on the Eleventh Circuit which includes the states of Alabama, Florida and Georgia. Prepared by: Abby J. Cohen Child Care Law & Policy Consultant 5337 College Avenue, Suite 332 Oakland, CA 94618

End Notes

1. Contract conditions, Substitution of Materials and Equipment, AIA Document A201/SC; Supplementary Conditions of the Contract for Construction. [Return to text.]

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